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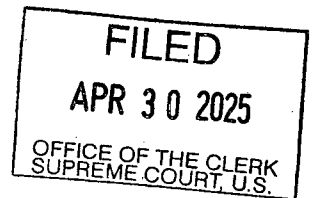
IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

In Re: Lotharp, Zannie J. — PETITIONER  
(Your Name)

VS.:



Sarah Harris (Acting Solicitor General)- RESPONDENT(S)

ON PETITION FOR A WRIT OF HABEAS CORPUS  
FROM THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
AT GREENSBORO.

PETITION FOR WRIT OF HABEAS CORPUS

Lotharp, Zannie J., in propria persona, sui juris  
(Your Name)

c/o 696 Muckerman Road.  
(Address)

Bennettsville, South Carolina [29512].  
(City, State, Zip Code)

N/A.  
(Phone Number)

## QUESTION(S) PRESENTED

### Rule 14.- Content of a Petition for a Writ of Certiorari

1. A petition for a writ of certiorari shall contain, in the order indicated:

(a) The questions presented for review, expressed concisely in relation to the circumstances of the case, without unnecessary detail. The questions should be short and should not be argumentative or repetitive. If the petitioner or respondent is under a death sentence that may be affected by the disposition of the petition, the notation capital case shall precede the questions presented. The questions shall be set out on the first page following the cover, and no other information may appear on that page. The statement of any question presented is deemed to comprise every subsidiary question fairly included therein. Only the question set out in the petition, or fairly included therein, will be considered by the Court.

1. Can the Supreme Court grant a writ of habeas corpus, for the purpose of inquiry into the cause of commitment?
2. Does it extend to a prisoner?
3. Is this a case where the writ should issue, where one is committed by a Court without competent jurisdiction? and
4. By what Authority exactly am I committed and/or detained???

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1) UNITED STATES OF AMERICA; 2) Sarah Harris (Acting U.S. Solicitor General); 3) Pam Bondi (U.S. Attorney General); 4) M V Joseph (Warden of Bennettsville-Federal Correctional Institution); 5) Nicole R Dupre (Asst. U.S. Attorney); 6) Tanner L. Kroeger (Asst. U.S. Attorney); 7) Thomas D. Schroeder (U.S. District Court Judge); 8) L. Patrick Auld (U.S. Magistrate Judge); 9) Micah Eldridge Huggins (Private Counsel); 10) Todd Allen Smith (Private Counsel); 11) Matthew G T Martin (U.S. Attorney); 12) Special Agent Jose Dugger (Homeland Security Investigations); 13) J G Faulkner (Magistrate, Stanly County); 14) T H Lowder (Magistrate, Stanly County); 15) Aria Merrill (Asst. District Attorney); Edward D Seltzer (Attorney-at-law).

## RELATED CASES

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. (1:19-cr-448-TDS-1). Thomas D. Schroeder, Chief District Judge. (Nov. 19, 2020).

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## INDEX TO APPENDICES

APPENDIX A - An electronic request & actual mailing request sent to  
staff here at BENNETTSVILLE-FCI asking for my JUDGEMENT  
& COMMITMENT ORDER, that staff here refuses to provide  
APPENDIX B the petitioner, with the evidence to follow.

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APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a writ of habeas corpus issue.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.
- 

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

☒ The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ The date on which the United States District Court, Middle District of North Carolina decided my case was 11/19/2020.

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).



## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### Constitutional Provision(s):

- 1) Article 1, Section 9, Clause 2, Constitution for the united States of America;
- 2) Article 3, Section 2, Clause 3, Constitution for the united States of America;
- 3) 4th Amendment, Constitution for the united States of America;
- 4) 5th Amendment, Constitution for the united States of America;
- 5) 6th Amendment, Constitution for the united States of America;
- 6) 8th Amendment, Constitution for the united States of America;
- 7) 1st Article, 20th Section, North Carolina Constitution;

### Statutory Provision(s):

- |                     |                        |
|---------------------|------------------------|
| 1) 28 U.S.C. §2241; | 3) 28 U.S.C. §1254(1); |
| 2) 28 U.S.C. §2242; | 4) 28 U.S.C. §2254(b); |

### Acts of Congress:

- 1) 14th Section of the Judiciary Act of 1789, vol. 1, p. 58;
- 2) 29th Section of the Judiciary Act of 1789, vol. 1, p. 67;
- ~~3) 33rd Section of the Judiciary Act of 1789, vol. 1, p. 73;~~
- 4) The Act for the Punishment of certain Crimes, s. 8, vol. 1, p. 103;
- 5) The English Habeas Corpus Act.

**STATEMENT OF THE CASE  
& RULE 20.4(A) STATEMENT**

1) Rule 20.- Procedure on a Petition for an Extraordinary Writ

4. (a) A petition seeking a writ of habeas corpus shall comply with the requirements of 28 U.S.C. §§2241 and 2242, and in particular with the provisions in the last paragraph of §2242, which requires a statement of the "reasons for not making application to the district court of the district in which the applicant is held." If the relief sought is from the judgement of a state court, the petition shall set out specifically how and where the petitioner has exhausted available remedies in the state courts or otherwise comes within the provisions of 28 U.S.C. §2254(b). To justify the granting of a writ of habeas corpus, the petitioner must show that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court. This writ is rarely granted.

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2) 28 U.S.C. §2241.- Power to grant writ

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdiction. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

(b) The Supreme Court, any justice thereof, and any circuit judge may decline to entertain an application for a writ of habeas corpus and may transfer the application for hearing and determination to the district court having jurisdiction to entertain it.

(c) The writ of habeas corpus shall not extend to a prisoner unless-

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof;

3) 28 U.S.C. §2242.- Application

Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.

It shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known.

It may be amended or supplemented as provided in the rules of procedure applicable to civil actions.

If addressed to the Supreme Court, a justice thereof or a circuit judge it shall state the reasons for not making application to the district court of the district in which the applicant is held.  
(June 25, 1948, c. 646, 62 Stat. 965.)

Petitioner, Zannie J. Lotharp, did not make application to the district court of the district of the district in which the applicant is held, because, the United States District Court for the district of South Carolina, the district in which the applicant is held, is without subject-matter jurisdiction to hear this case.

## REASONS FOR GRANTING THE PETITION

### GROUND ONE:

The Indictments under which the Petitioner was convicted and sentence to imprisonment, charge no offense for which the Petitioner was punishable in the United States District Court, Middle District of North Carolina for or of which the United States District Court, Middle District of North Carolina, could take cognizance of; and, consequently the proceedings are coram non iudice.

### SUPPORTING FACTS:

Petitioner avers, on or about 08/26/2019, the United States District Court, Middle District of North Carolina, found against petitioner an INDICTMENT (See, "Exhibit A"- File No. 1:19CR448-1) charging the following four (4) COUNTS:

#### COUNT 1:

on or about October 19, 2018-ZANNIE JAY LOTHARP, SHONTEYA CHRISTINA HARRIS, and DIVERS OTHER PERSONS- Conspiracy to Distribute Heroin (Object-1), Conspiracy to Distribute Fentanyl (Object-2)- in violation of 21 U.S.C. §846 and 21 U.S.C. §841(b)(1)(C);

#### COUNT 2:

on or about October 19, 2018-ZANNIE JAY LOTHARP, and SHONTEYA CHRISTINA HARRIS- Possession with Intent to distribute Heroin- in violation of 21 U.S.C. §841(b)(1)(C);

#### COUNT 3:

on or about January 23, 2019-ZANNIE JAY LOTHARP-Distribute Heroin- in violation of 21 U.S.C. §841(b)(1)(C);

#### COUNT 4:

on or about February 7, 2019-ZANNIE JAY LOTHARP and SHONTEYA CHRISTINA HARRIS-Distribute Heroin- in violation of 21 U.S.C. §841(b)(1)-(C).

Petitioner avers, on or about 08/27/2019, the United States District Court, Middle District of North Carolina, issued its ARREST WARRANT in case as to ZANNIE JAY LOTHARP (1);

Petitioner avers, on or about 09/27/2019, Magistrate Judge L. Patrick Auld, of the U.S. District Court, Middle District of North Carolina, issued a Writ of Habeas Corpus ad prosequendum as to ZANNIE JAY LOTHARP (1). Writ issued for October 9, 2019, at 9:30AM in Winston-Salem, North Carolina for ARRAIGNMENT;

Petitioner avers, on or about 10/02/2019, the ARREST WARRANT of the U.S. District Court, Middle District of North Carolina, was re-turned executed on 10/01/2019, in case as to ZANNIE JAY LOTHARP (1);

Petitioner avers, on or about 10/17/2019, the ARRAIGNMENT as to ZANNIE JAY LOTHARP (1) as to COUNTS 1, 2, 3, and 4, was held on this day. Defendant enters plea of "NOT GUILTY" to all charges.

SUPPORTING FACTS:

Petitioner avers, on or about 01/31/2020, the U.S. District Court, Middle District of North Carolina, issued a SUPERSEDING INDICTMENT (See, "Exhibit B"- File No. 1:19CR448-1) against petitioner charging the following five (5) COUNTS:

COUNT 1:

on or about October 19, 2018, including up to the present-ZANNIE JAY LOTHARP, SHONTEYA CHRISTINA HARRIS, and DIVERS OTHER PERSONS- Conspiracy to distribute Heroin (Object-1), Conspiracy to distribute Fentanyl (Object-2)- in violation of 21 U.S.C. §846 and 21 U.S.C. §841(b)(1)(C);

COUNT2:

on or about October 19, 2018-ZANNIE JAY LOTHARP and SHONTEYA CHRISTINA HARRIS- Possession with Intent to distribute Heroin- in violation of 21 U.S.C. §841(b)(1)(C);

COUNT 3:

on or about January 15, 2019-ZANNIE JAY LOTHARP and SHONTEYA CHRISTINA HARRIS- Possession with Intent distribute Heroin- in violation of 21 U.S.C. §841(b)(1)(C);

COUNT 4:

on or about January 23, 2019-ZANNIE JAY LOTHARP- Distribute Heroin- in violation of 21 U.S.C. §841(b)(1)(C);

COUNT 5:

on or about February 7, 2019- ZANNIE JAY LOTHARP and SHONTEYA CHR-

ISTINA HARRIS- Distribute Heroin- in violation of 21 U.S.C. §841(b)(1)(C).

Petitioner avers, on or about 02/06/2020, the ARRAIGNMENT as to ZANNIE JAY LOTHARP (1) as to COUNTS 1s, 2s, 3s, 4s, and 5s, was held this day. Defendant enters plea of "NOT GUILTY" to all charges;

Petitioner avers, on or about 03/09/2020, TRIAL was had against petitioner by the U.S. District Court, Middle District of North Carolina;

Petitioner avers, on or about 03/11/2020, VERDICT (See, "Exhibit Z"- File No. 1:19CR448-1) was rendered on the SUPERSEDING INDICTMENT finding the petitioner "GUILTY" of COUNTS 1s (Objects-1 and Objects-2) and COUNTS 3s and "NOT GUILTY" of COUNTS 4s and 5s;

Petitioner avers, on or about 11/19/2020, SENTENCED was pronounced in case as to ZANNIE JAY LOTHARP (1);

Petitioner avers, on or about 11/19/2020, JUDGEMENT was entered in case as to ZANNIE JAY LOTHARP (1);

SUPPORTING FACTS:

Petitioner avers, immediately on the rendition of the JUDGEMENT, and in the pretended pursuance and execution of the same, the petitioner was, on the 19th of November, 2020, committed to the common goal of the FEDERAL BUREAU OF PRISONS, in which I have since been confined, under color and pretense of the authority, force, and effect of the said SUPERSEDING INDICTMENT (See, "Exhibit B"- File No. 1:19CR448-1); the said convictions and judgements are illegal and wholly void upon their faces, and give no valid authority or warrant whatever for my commitment and imprisonment; the INDICTMENTS do not, nor does any one of them charge or import any offense at common law whatever, cognizable in the course of criminal judicature, and especially no offense cognizable or punishable by the said U.S. District Court, Middle District of North Carolina, and my imprisonment is

wholly unjust, and without any lawful ground, warrant or authority whatever.

Petitioner prays the benefit of the writ of habeas corpus, to be directed to a M V JOSEPH (WARDEN), BENNETTSVILLE-FCI, in whose custody, as keeper for the FEDERAL BUREAU OF PRISONS (FBOP), the petitioner is, commanding him to bring the body of the petitioner before the Court, with the cause of my commitment; and especially commanding him to return with the writ the record of the proceedings upon the SUPERSEDING INDICTMENT, with JUDGEMENT thereupon; and to certify whether the petitioner be not actually imprisoned by the supposed authority, and in virtue of the said JUDGEMENT.

SUPPORTING FACTS:

Petitioner avers, the Supreme Court has no jurisdiction in criminal cases which would reverse or affirm a judgement rendered in the Circuit Court in such case, where the record is brought up directly by writ of error. The power of the Supreme Court to award its writ of habeas corpus is conferred expressly on the Supreme Court by the fourteenth section of the Judicial Act, and has been repeatedly exercised. No doubt exists respecting the power (citing EX PARTE WATKINS, 7 LED 650, 3 PETERS 193).

-By saidit 14th Section of the Judiciary Act of 1789, vol.1, p.58, it is enacted-

"that all the before-mentioned courts of the United States" (including the Supreme Court "shall have power to issue writs of scire facias, habeas corpus, and all other writs," &c. "And that either of the justices of the Supreme Court, as well as the judges of the district courts, shall have power to grant writs of habeas corpus, for purpose of an inquiry into the cause of commitment." If a single justice of this court has the power, it would be a strange construction of the law, and of the Constitution, to say that the whole court cannot exercise the same power."

R.E.P.L.Y.

Petitioner avers, this is the true nature and powers of the writ of habeas corpus. A judgement concludes the subject on which it is rendered,

and pronounces the law of the case. The judgement of a court of record whose judgement is final, is as conclusive on all the world as the judgement of the Supreme Court would be. It is as conclusive on the Supreme Court as on other courts. It puts an end to the inquiry concerning the fact by deciding it... An imprisonment under a judgement cannot be unlawful, unless that judgement be an absolute nullity; and it is not a nullity if the court has general jurisdiction of the subject, although it should be erroneous... To determine whether the offense charged in the Indictment be legally punishable or not, is among the most unquestionable of its powers and duties. The decision of this question is the exercise of its jurisdiction, whether its judgement be for or against the prisoner. The judgement is equally binding in one case and in the other, and must remain in full force, unless reversed regularly by a superior court capable of reversing it. If this judgement is obligatory, no court can ever look behind it (citing EX PARTE WATKINS, 7 LED 650, 3 PETERS 193).

A couple cases worthy of note:

1. All the proceedings of a court beyond its jurisdiction are void. WISE v. WITHERS, 3 CRANCH, 331; 1 PETERS' CONDENSED REP. 552; ROSE v. HIMLEY, 4 CRANCH, 241, 268, 552; ROE v. HARDEN, 1 PAINE' REP. 55, 58, 59.
2. In the case where a court acting beyond its jurisdiction has committed a party to prison, a habeas corpus is the proper remedy, and affords the means of trying the question. 3 CRANCH, 448; 1 PETERS' CONDENSED REP. 594; BOLLMAN and SWARTWOUT, 4 CRANCH, 75; KEARNEY'S CASE, 7 WHEAT. 38.
3. The writ does not issue of course, but the party must show that he is imprisoned by a court having no jurisdiction. 1 CHITTY'S CRIM. LAW, 124, 125; WHEAT. 88. A habeas corpus is a proper remedy for revising the proceedings of a court in a criminal case. 1 CHITTY'S CRIM. LAW, 180.
4. It has been decided in many cases that a writ of habeas corpus may issue so as to make its action equivalent to that of a writ of error. 1 CHIT. CRIM. LAW, 180.

SUPPORTING FACTS:

Petitioner avers, "All courts from which an appeal lies are inferior courts in relation to the appellate courts, before which their judgement



may be carried; but they are not, therefore, inferior courts in the technical sense of those words. They apply to courts of special and limited jurisdiction, which are erected on such principles that their judgements taken alone are entirely disregarded, and the proceedings must show their jurisdiction. The courts of the United States are all of limited jurisdiction, and their proceedings are erroneous if the jurisdiction be not shown upon them. Judgements rendered in such cases may certainly be reversed; but this court is not prepared to say that they are absolute nullities, which may be totally disregarded." See, EX PARTE WATKINS, 7 LED 650, 3 PETERS 193, 205).

R.E.P.L.Y.

Petitioner avers, the U.S. District Court, Middle District of North Carolina, is an inferior tribunal, proceeding by force of particular statutes out of the course of the common law; the U.S. District Court, Middle District of North Carolina, jurisdiction is limited by statute, both as to the nature of the offense and the descriptions of persons over whom it should have cognizance;

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Petitioner avers, the INDICTMENTS (ORIGINAL & SUPERDEDING) of the U.S. District Court, Middle District of North Carolina, charge "No" offense for which the petitioner was punishable in that court for, or of which the U.S. District Court, Middle District of North Carolina, could take cognizance; No offense is charged in the INDICTMENTS (ORIGINAL or SUPERSEDING) cognizable by the laws of North Carolina; and No offense is charged which is cognizable by the laws of the United States.

Petitioner avers, the U.S. District Court, Middle District of North Carolina, is located at 251 N. CHURCH STREET, WINSTON-SALEM, NORTH CAROLINA 27701; who's location was also the place of trial, but "NOT" the place where this crime was allegedly committed (i.e. STANLY COUNTY not FORSYTH

COUNTY).

ARGUMENT IN SUPPORT:

By the 3rd Article of the Constitution of the U.S., the trial of crimes shall be in the state where they shall have been committed; but when not committed in any state, the trial shall be at such place or places as Congress may by law have directed. So by the 29th Section of the Judiciary Act of 1789, vol.1, p.67, in all cases punishable with death, the trial shall be had in the county where the offense was committed, or where that cannot be done without great inconvenience, twelve petite jurors at least shall be summoned from thence; by the 33rd Section of the same Act, p.73, offenders are to be arrested and imprisoned or bailed for trial before such court of the United States, as by that Act has cognizance of the offense; and copies of the process shall be returned as speedily as may be into the Clerk's office of such court, together with the recognizance of the witnesses for their appearance to testify in the case, and if commitment be in a district other than that which the offense is to be tried, it shall be the duty of the judge of the district where the delinquent is imprisoned to issue a WARRANT for the removal of the offender to the district in which the trial is to be had.

These are the provisions for a speedy and fair trial, in obedience to the Constitution for it has always been considered as necessary to a fair trial that it should be where the witness may easily attend, and where the party is known. The 6th Amendment to the Constitution provides that the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district, wherein the crime shall have been committed, which district shall have been ascertained by law.

By the Act for the Punishment of Certain Crimes, s.8, vol.1, p.103, it is enacted, that "the trial of crimes committed" in any place out of

the jurisdiction of any particular state shall be in the district where the offender is apprehended, or into which he may first be brought."

By the English Habeas Corpus Act, whose provisions are considered as extending to cases even out of the act, the prisoner may petition the court for trial at the first term, and if not then tried he is entitled to bail of course. If the commitment is in a district in which he cannot be tried, he will not be entitled to this privilege, for he is still to be removed to the place of trial. Hence it is necessary that the commitment should state the court before whom the trial is to be had. It is also necessary in order that the district judge may know where to send him. No person but the district judge has authority to send him to the place of trial, and if the commitment be not made by the district judge, it is impossible that he should judicially know where to send him, unless the place be mentioned in the warrant of commitment. It is also necessary that the accused may know where to collect his witnesses together (citing EX PARTE BOLLMAN and EX PARTE SWARTWOUT, 4 CRANCH 75, 108-109).

ARGUMENT IN SUPPORT:

Petitioner avers, on or about 10/19/2018, following the execution of a SEARCH WARRANT (See, "Exhibit C") by the ALBEMARLE POLICE DEPARTMENT, STANLY COUNTY, ALBEMARLE, N.C., the petitioner was arrested by a Detective D.B. Springer, jailed in the STANLY COUNTY DETENTION CENTER (SCDC), and charged with the following eight (8) COUNTS by Magistrate T H LOWDER, after the issuance of three (3) MAGISTRATE'S ORDERS (See, "Exhibits D, E, & F"- File No(s): 18CR052077, 18CR052078, & 18CR052079):

COUNT 1:

on or about October 19, 2018-ZANNIE JAY LOTHARP- Trafficking, Opi-um or Heroin- in violation of N.C.G.S. §90-95(H)(4)- Felony (F)(See "Exhibit D"- File No. 18CR052079);

COUNT 2:

on or about October 19, 2018-ZANNIE JAY LOTHARP- Possession of He-

roin- in violation of N.C.G.S. §90-95(D)(1)- Felony (F)(See, "Exhibit D"- File No. 18CR052079);

COUNT 3:

on or about October 19, 2018-ZANNIE JAY LOTHARP- Possession with Intent to Manufacture/Sell/Deliver Heroin- in violation of N.C.G.S. §90-95(A)(1)- Felony (F)(See, "Exhibit D"- File No. 18CR052079);

COUNT 4:

on or about October 19, 2018-ZANNIE JAY LOTHARP- Possession of Drug Paraphernalia- in violation of N.C.G.S. §90-113.22(A)- Misdemeanor (M)(See, "Exhibit E"- File No. 18CR052077);

COUNT 5:

on or about October 19, 2018-ZANNIE JAY LOTHARP- Possession of Marijuana up to 1/2 oz.- in violation of N.C.G.S. §90-95(D)(4)- Misdemeanor (M)(See, "Exhibit E"- File No. 18CR052077);

COUNT 6:

on or about October 19, 2018-ZANNIE JAY LOTHARP- Possession with Intent to Manufacture/Sell/Deliver Cocaine- in violation of N.C.G.S. §90-95(A)(1)- Felony (F)(See, "Exhibit F"- File No. 18CR052078);

COUNT 7:

on or about October 19, 2018-ZANNIE JAY LOTHARP- Felony Possession of Cocaine- in violation of N.C.G.S. §90-95(D)(2)- Felony (F)(See, "Exhibit F"- File No. 18CR052078);

COUNT 8:

on or about October 19, 2018-ZANNIE JAY LOTHARP- Maintaining Vehicle/Dwelling/Place Controlled Substance- in violation of N.C.G.S. §90-108(A)(7)- Felony (F)(See, "Exhibit F"- File No. 18CR052078);

R.E.P.L.Y.

Petitioner avers, all three (3) MAGISTRATE'S ORDERS' issued by Magistrate T H LOWDER stipulated these crimes were committed in the State of North Carolina; specifically, in the County of Stanly, to be tried in the General Court of Justice, District court Division, Judicial District 20A, Stanly County Courthouse, located at 201 S. Second Street, Albemarle, N.C. 28002. The court date was scheduled for 10/29/2018 at 9:30AM. These MAGISTRATE'S ORDERS' issued upon information furnished under oath by a Detective D. B. Springer.

Petitioner avers, INDICTMENTS were issued on all three (3) MAGISTRATE'S

ORDERS' on 11/13/2018 (See, "Exhibits I, J, & K"); with DISMISSAL NOTICE OF REINSTATEMENT issuing on 10/09/2019 (See, "Exhibits L, M, & N").

ARGUMENT IN SUPPORT:

Petitioner avers, on or about 01/15/2019, shortly after returning from a doctor's visit, the petitioner was arrested by a Officer T R Poplin, of the ALBEMARLE POLICE DEPARTMENT, in Stanly County, Albemarle, N.C., placed in the STANLY COUNTY DETENTION CENTER (SCDC), and charged with the following one COUNT, by Magistrate T H LOWDER, after issuance of MAGISTRATE'S ORDER (See, "Exhibit O"- File No. 19CR050097):

COUNT 1:

on or about January 15, 2019-ZANNIE JAY LOTHARP- Trafficking, Opi-um or Heroin- in violation of N.C.G.S. §90-95(H)(4)- Felony (F) (See, "Exhibit O"- File No. 19CR050097).

R.E.P.L.Y.

Petitioner avers, this MAGISTRATE ORDER issued by Magistrate T H LOWDER stipulated this crime was committed in the State of North Carolina; specifically, in the County of Stanly, to be tried in the General Court of Justice, District Court Division, Judicial District 20A, Stanly County Courthouse, located at 201 S. Second Street, Albemarle, N.C., 28002. The Court date was set for 01/28/2019, at 9:00AM. This MAGISTRATE ORDER issued upon information furnished under oath by Officer T R Poplin.

Petitioner avers, an INDICTMENT issued on this MAGISTRATE ORDER on 02/18/2019 (See, "Exhibit P"); with DISMISSAL NOTICE OF REINSTATEMENT issuing on 10/09/2019 (See, "Exhibit Q").

ARGUMENT IN SUPPORT:

Petitioner avers, on or about 08/28/2019, while in Stanly County, Albemarle, N.C., the petitioner was arrested by WARRANT (See, "Exhibits R, S, & T"- File No(s) 19CR051983 - 19CR051985) by a Detective A L Aldridge of the ALBEMARLE POLICE DEPARTMENT, placed in the STANLY COUNTY DETENTION

CENTER (SCDC), and charged with the following eight (8) COUNTS:

COUNT 1:

on or about January 14, 2019 through January 14, 2019-ZANNIE JAY LOTHARP and SHONTEYA CHRISTINA HARRIS- Conspire Sell/Deliver Heroin- in violation of N.C.G.S. §90-98;

COUNT 2:

on or about January 14, 2019 through January 14, 2019-ZANNIE JAY LOTHARP and SHONTEYA CHRISTINA HARRIS- Conspire Sell/Deliver Heroin- in violation of N.C.G.S. §90-98;

COUNT 3:

on or about January 23, 2019-ZANNIE JAY LOTHARP- Sell Heroin to EUGENE CHALIN- in violation of N.C.G.S. §90-95(A)(1);

COUNT 4:

on or about January 23, 2019-ZANNIE JAY LOTHARP- Deliver Heroin to EUGENE CHALIN- in violation of N.C.G.S. §90-95(A)(1);

COUNT 5:

on or about January 23, 2019-ZANNIE JAY LOTHARP- Possession with Intent to Manufacture/Sell/Deliver Heroin- in violation of N.C.G.S. §90-95(A)(1);

COUNT 6:

on or about February 7, 2019-ZANNIE JAY LOTHARP- Sell Heroin to EUGENE CHALIN- in violation of N.C.G.S. §90-95(A)(1);

COUNT 7:

on or about February 7, 2019-ZANNIE JAY LOTHARP- Deliver Heroin to EUGENE CHALIN- in violation of N.C.G.S. §90-95(A)(1);

COUNT 8:

on or about February 7, 2019-ZANNIE JAY LOTHARP- Possession with Intent to Manufacture/Sell/Deliver Heroin- in violation of N.C.G.S. §90-95(A)(1);

R.E.P.L.Y.

Petitioner avers, all three (3) WARRANTS FOR ARREST (See, "Exhibits R, S, & T"- File No(s) 19CR051983 - 19CR051985) issued by Magistrate T H LOWDER stipulated these crimes were committed in the State of North Carolina; specifically, in the County of Stanly, to be tried in the General Court of Justice, District Court Division, Judicial District 20A, Stanly County Courthouse, located at 201 S. Second Street, Albemarle, N.C., 28002. The Court date was scheduled for??? There is "NO" date nor time listed, as there are like with the MAGISTRATE's ORDERS that were spoke on previously

issued on 10/19/2018 and 01/15/2019. All three (3) WARRANTS FOR ARREST were issued upon information furnished under oath by a Detective A L Aldridge.

Petitioner avers, INDICTMENTS were never issued on these WARRANTS FOR ARREST by the Stanly County Courthouse, as they were with the MAGISTRATE'S ORDERS dated 10/19/2018 and 01/15/2019. DISMISSAL NOTICE OF REINSTATEMENT for these WARRANTS issued on 10/09/2019, just as it did with the MAGISTRATE'S ORDERS dated 10/19/2018 and 01/15/2019 (See, "Exhibits U, V, & W").

ARGUMENT IN SUPPORT:

Petitioner avers, it is admitted that the judgement of a court of competent jurisdiction is conclusive, when the case is one properly submitted to the operation of that jurisdiction. But it is not sufficient to say that its jurisdiction is general; it should appear it had jurisdiction of the offense charged. Cited, ROSE v. HIMELY, 5 CRANCH, 313; GRIFFITH v. FRAZIER, 8 CRANCH, 9. In all the cases which have become before this court in which a writ of habeas corpus has been applied for, the decision has been in favor of the jurisdiction (Quoting EX PARTE WATKINS, 7 LED 650, 3 PETERS 193, 198).

Petitioner avers, if the question respecting the power of this court, under the construction and the Act of Congress, if not under the common law, to issue the writ of habeas corpus ad subjiciendum, were still open, it ought, on these principles and authorities, to be decided in our favor. But it is not open. It has been twice solemnly adjudged in this court. First in the case of HAMILTON, 3 DALL. 17, not long after the court was organized; and very recently in the case of BURFORD. (Ante, vol.3, p.448.) We contend that the case is settled by these decisions, and that it is no longer a question whether this court has the power which it is now called upon to exercise. The exercise of this power, the benefit of these decisi-

ons, the protection of the law thus established, we claim as a matter of right, which this honorable court cannot refuse (Quoting EX PARTE BOLLMAN and EX PARTE SWARTWOUT, 4 CRANCH 75, 87).

Petitioner avers, if the jurisdiction does not appear upon the face of the proceedings, the presumption of law is, that the court had not jurisdiction, and the cause was coram non iudice; in which case no valid judgement could be rendered (Quoting EX PARTE WATKINS, 7 LED 650, 3 PETERS 193, 204).

R.E.P.L.Y.

Petitioner avers, the petitioner is committed/detained in prison by virtue of the judgement of a court (i.e. U.S. District Court, Middle District of North Carolina) which court did not possess general and final jurisdiction in criminal cases. The Stanly County Courthouse for the County of Stanly is a court of record, having general jurisdiction over criminal cases. An offense cognizable in any court is cognizable in that court. If the offense be punishable by law, that court is competent to inflict punishment.

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"Let it be declared that there resides in this high tribunal (as respectable as our constitution can make it, and as independent as the nature of our government permits) a power to protect the liberty of the citizen, by writ of habeas corpus, against the enterprises of inferior courts, which may be constituted for the purposes of oppression or revenge, and you place one barrier more round our safety" (Quoting EX PARTE BOLLMAN and EX PARTE SWARTWOUT, 4 CRANCH 75, 90)(emphasis omitted).



GROUND TWO:

The petitioner is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or

SUPPORTING FACTS:

Petitioner avers, on or about 08/28/2019, a Detective A L Aldridge, of the ALBEMARLE POLICE DEPARTMENT, along with the ALBEMARLE POLICE DEPARTMENT, arrested petitioner by WARRANT (See, "Exhibits R, S, & T"- File No (s) 19CR051983 - 19CR051985), placed petitioner in the STANLY COUNTY DETENTION CENTER (SCDC), gave petitioner a One Million Dollar (\$1,000,000.00) secured bond as part of the CONDITIONS OF RELEASE AND RELEASE ORDER (See, "Exhibit X"- File No. 19CR051985), lodged a DETAINER by ICE/HOMELAND SECURITY INVESTIGATIONS (See, "Exhibit Y") against petitioner, and charged petitioner with the following eight (8) COUNTS:

COUNT 1:

on or about January 14, 2019 through January 14, 2019-ZANNIE JAY LOTHARP and SHONTEYA CHRISTINA HARRIS- Conspire Sell/Deliver Heroin- in violation of N.C.G.S. §90-98;

COUNT 2:

on or about January 14, 2019 through January 14, 2019-ZANNIE JAY LOTHARP and SHONTEYA CHRISTINA HARRIS- Conspire Sell/Deliver Heroin- in violation of N.C.G.S. §90-98;

COUNT 3:

on or about January 23, 2019-ZANNIE JAY LOTHARP-Sell Heroin to EUGENE CHALIN- in violation of N.C.G.S. §90-95(A)(1);

COUNT 4:

on or about January 23, 2019-ZANNIE JAY LOTHARP-Deliver Heroin to EUGENE CHALIN- in violation of N.C.G.S. §90-95(A)(1);

COUNT 5:

on or about January 23, 2019-ZANNIE JAY LOTHARP-Possession with Intent to Manufacture/Sell/Deliver Heroin- in violation of N.C.G.S. §90-95(A)(1);

COUNT 6:

on or about February 7, 2019-ZANNIE JAY LOTHARP-Sell Heroin to EUGENE CHALIN- in violation of N.C.G.S. §90-95(A)(1);

COUNT 7:

on or about February 7, 2019-ZANNIE JAY LOTHARP- Deliver Heroin to EUGENE CHALIN- in violation of N.C.G.S. §90-95(A)(1);

COUNT 8:

on or about February 7, 2019-ZANNIE JAY LOTHARP-Possession with Intent to Manufacture/Sell/Deliver Heroin- in violation of N.C.G.S §90-95(A)(1);

R.E.P.L.Y.

Petitioner avers, all three (3) WARRANTS FOR ARREST (See, "Exhibits R, S, & T"- File No(s) 19CR051983 - 19CR051985) issued by Magistrate T H LOWDER stipulated these crimes were committed in the State of North Carolina; specifically, in the County of Stanly, to be tried in the General Court of Justice, District Court Division, Judicial District 20A, Stanly County Courthouse, located at 201 S. Second Street, Albemarle, N.C. 28002. The court date was scheduled for??? There is "NOT" one listed, date nor time. All three (3) WARRANTS FOR ARREST were issued upon information furnished under oath by a Detective A L Aldridge.

Petitioner avers, INDICTMENTS were never issued on these WARRANTS FOR ARREST by the Stanly County Courthouse. DISMISSAL NOTICE OF REINSTATEMENT for these WARRANTS issued on 10/09/2019 (See, "Exhibits U, V, & W").

SUPPORTING FACTS:

Petitioner avers, on or about 10/01/2019, petitioner was transferred from the STANLY COUNTY DETENTION CENTER (SCDC), in Albemarle, N.C. 28002, by the U.S. MARSHALS to the ORANGE COUNTY DETENTION CENTER (OCDC), in Hillsborough, N.C., to spend the night one (1) night until the following day, where the petitioner would be transferred to the U.S. District Court, Middle District of North Carolina, to be served an INDICTMENT (See, "Exhibit A"- File No. 1:19CR448-1) issued by the U.S. District Court, Middle District of North Carolina.

Petitioner avers, on or about 10/02/2019, the very next day the petitioner was transferred out of ORANGE COUNTY DETENTION CENTER (OCDC), in Hillsborough, N.C., by the U.S. MARSHALS, taken before the U.S. District

Court, Middle District of North Carolina, in Greensboro, N.C., served an INDICTMENT (See, "Exhibit A"- File No. 1:19CR448-1) and placed in the FORSYTH COUNTY DETENTION CENTER (FCDC), in Winston-Salem, N.C., pending trial.

Petitioner avers, on or about 10/17/2019, ARRAIGNMENT as to ZANNIE JAY LOTHARP (1) as to COUNTS 1, 2, 3, and 4 was held on this day. Defendant enters plea of "NOT GUILTY" to all charges.

ARGUMENT IN SUPPORT:

Saidit Title 28 U.S.C. §2241(c)(1)- Power to grant writ.- mandates-

(c) The writ of habeas corpus shall not extend to a prisoner unless-

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof;

or

R.E.P.L.Y.

Petitioner avers, on or about 08/26/2019, the U.S. District Court, Middle District of North Carolina, issued an INDICTMENT (See, "Exhibit A"- File No. 1:19CR448-1) charging the petitioner with the following four (4) COUNTS:

COUNT 1:

on or about October 19, 2018-ZANNIE JAY LOTHARP, SHONTEYA CHRISTINA HARRIS, and DIVERS OTHER PERSONS- Conspiracy to distribute Heroin (Object-1), Conspiracy to distribute Fentanyl (Object-2)- in violation of 21 U.S.C. §846 and 21 U.S.C. §841(b)(1)(C);

COUNT 2:

on or about October 19, 2018-ZANNIE JAY LOTHARP and SHONTEYA CHRISTINA HARRIS- Possession with Intent to distribute Heroin- in violation of 21 U.S.C. §841(b)(1)(C);

COUNT 3:

on or about January 23, 2019-ZANNIE JAY LOTHARP- Distribute Heroin- in violation of 21 U.S.C. §841(b)(1)(C);

COUNT 4:

on or about February 7, 2019-ZANNIE JAY LOTHARP and SHONTEYA CHRISTINA HARRIS- Distribute Heroin- in violation of 21 U.S.C. §841(b)(1)(C).

R.E.P.L.Y.

Petitioner avers, on or about 08/27/2019, the U.S. District Court, Middle District of North Carolina, issued its ARREST WARRANT in case No. 1:19CR448-1, as to ZANNIE JAY LOTHARP (1);

Petitioner avers, on or about 09/27/2019, Magistrate Judge L. Patrick Auld, of the U.S. District Court, Middle District of North Carolina, issued a writ of habeas corpus ad prosequendum as to ZANNIE JAY LOTHARP (1). Writ issued for October 9, 2019, at 9:30AM in Winston-Salem, N.C., for ARRAIGNMENT;

Petitioner avers, on or about 10/02/2019, the ARREST WARRANT of the U.S. District Court, Middle District of North Carolina, was returned executed on 10/01/2019 in case as to ZANNIE JAY LOTHARP (1);

Petitioner avers, on or about 10/17/2019, the ARRAIGNMENT as to ZANNIE JAY LOTHARP (1) as to COUNTS 1, 2, 3, and 4 was held on this day. Defendant enters plea of "NOT GUILTY" to all charges.

ARGUMENT IN SUPPORT:

Petitioner avers, on or about 01/31/2020, the U.S. District Court, Middle District of North Carolina, issued a SUPERSEDING INDICTMENT (See, "Exhibit B"- File No. 1:19CR448-1) against petitioner, charging petitioner with the following five (5) COUNTS:

COUNT 1:

on or about October 19, 2018, including up to the present- ZANNIE JAY LOTHARP, SHONTEYA CHRISTINA HARRIS, and DIVERS OTHER PERSONS- Conspiracy to distribute heroin (Object-1), Conspiracy to distribute fentanyl (Object-2)- in violation of 21 U.S.C. §846 and 21 U.S.C. §841(b)(1)(C);

COUNT 2:

on or about October 19, 2018-ZANNIE JAY LOTHARP and SHONTEYA CHRISTINA HARRIS- Possession with Intent to distribute heroin- in violation of 21 U.S.C. §841(b)(1)(C);

COUNT 3:

on or about January 15, 2019- ZANNIE JAY LOTHARP and SHONTEYA CHRISTINA HARRIS- Possession with Intent to distribute heroin- in vi-

olation of 21 U.S.C. §841(b)(1)(C);

COUNT 4:

on or about January 23, 2019- ZANNIE JAY LOTHARP- Distribute heroin- in violation of 21 U.S.C. §841(b)(1)(C);

COUNT 5:

on or about February 7, 2019- ZANNIE JAY LOTHARP and SHONTEYA CHRISTINA HARRIS- Distribute heroin- in violation of 21 U.S.C. §841(b)(1)(C).

R.E.P.L.Y.

Petitioner avers, on or about 02/06/2020, the ARRAIGNMENT as to ZANNIE JAY LOTHARP (1) as to COUNTS 1s, 2s, 3s, 4s, and 5s was held on this day. Defendant enters plea of "NOT GUILTY" to all charges;

Petitioner avers, on or about 03/09/2020, TRIAL was had against petitioner by the U.S. District Court, Middle District of North Carolina;

Petitioner avers, on or about 03/11/2020, VERDICT was rendered on the SUPERSEDING INDICTMENT finding the petitioner "GUILTY" of COUNTS 1s (Object-1 and Object- 2) and COUNTS 3s and "NOT GUILTY" of COUNTS 4s and COUNTS 5s (See, "Exhibit Z"- File No. 1:19CR448-1);

Petitioner avers, on or about 11/19/2020, SENTENCED was pronounced in case as to ZANNIE JAY LOTHARP (1);

Petitioner avers, on or about 11/19/2020, JUDGEMENT was entered in case as to ZANNIE JAY LOTHARP (1);

ARGUMENT IN SUPPORT:

Petitioner avers, the commitment that petitioner is currently under is illegal, both under the Constitution of North Carolina, and that of the United States. It does not state a cause certain, supported by oath.

Petitioner avers, by the 1st Article, 20th Section of the bill of rights of North Carolina, it is declared, that all warrants to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.

Petitioner avers, by the 4th article of the amendments to the constitution of the United States, it is declared, "that no warrants shall issue but upon probable cause, supported by oath or affirmation."

Petitioner avers, by the 6th article of the amendments to the constitution of the United States, it is declared, that in all criminal prosecutions, the prisoner shall enjoy the right to be informed of the nature and cause of his accusation, and to be confronted with the witnesses against him; and the 8th article declares, that excessive bail shall not be required.

R.E.P.L.Y.

Petitioner avers, the ARREST WARRANT of the U.S. District Court, Middle District of North Carolina, issued on 08/27/2019, does not state a cause certain, supported by oath. It is issued based off an INDICTMENT not issued through the regular course of procedures (i.e. proceeding de novo);

Petitioner prays for a Certiorari to the Clerk, to certify the record by which my cause of commitment might be examined, and its legality investigated.

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ARGUMENT IN SUPPORT:

Petitioner avers, in cases of arrests and commitments, the general rules of evidence are no further to be departed from than the necessity of the case requires. On application to a magistrate for a warrant for arrest, the evidence must necessarily be ex parte, but no other departure from the common rules of evidence is justifiable, because not necessary. It is a general rule of law respecting testimony, that it shall be taken before the tribunal which is to act upon it, or under the direction of that tribunal; that the person who is to decide, shall also inquire; that the inquiry shall not be before one tribunal, and the judgement pronounced by another. This rule, so important to the safety of persons accused, is equally

applicable to arrests and commitments as to trials, and should, therefore, be equally observed. The party arrested and brought before the magistrate for commitment, has a right to be confronted with his accuser, and to cross-examine the witnesses produced against him, and by that means to explain circumstances which, at first view, might criminate him (Quoting Ex Parte Bollman and Ex Parte Swartwout, 4 CRANCH 75, 120).

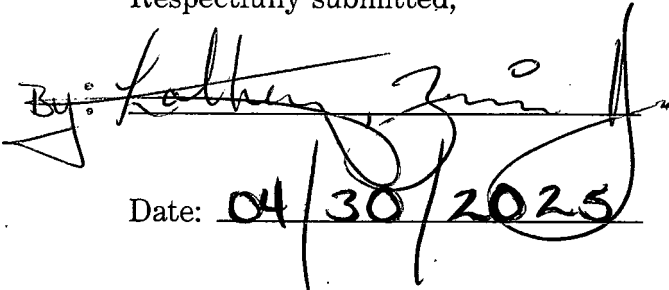
R.E.P.L.Y.

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it. Article- 1, Section- 9, Clause- 2, Constitution for the united States of America. And this "IS NOT" one of those Cases.

#### CONCLUSION

The petition for a writ of habeas corpus should be granted.

Respectfully submitted,

By:    
Date: 04/30/2025