



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-84,143-01**

**EX PARTE TRAVIS BOOE, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 07-CR-4383-H IN THE 347TH DISTRICT COURT  
FROM NUECES COUNTY**

**PER CURIAM. YEARY, J., filed a dissenting opinion.**

## **OPINION**

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). A jury found Applicant not guilty of one count of online solicitation of a minor under Section 33.021(c) of the Texas Penal Code, but guilty of a second count of online solicitation of a minor under Section 33.021(b) of The Texas Penal Code. The trial court sentenced Applicant to fourteen years' imprisonment. He did not appeal his conviction.

In *Ex parte Lo*, 424 S.W.3d 10 (Tex. Crim. App. 2013), this Court held that Section

33.021(b) of the Texas Penal Code, the statute pursuant to which Applicant was convicted, was unconstitutional. Applicant, through counsel, filed this habeas application based on the *Lo* decision and asks that his conviction be set aside. The trial court recommends granting relief. This Court agrees with the trial court.

Relief is granted. The judgment in Cause No. 07-CR-4383-H in the 347th District Court of Nueces County is set aside, and the cause is remanded so that the trial court can dismiss the indictment. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice—Correctional Institutions Division and Pardons and Paroles Division.

Delivered: December 16, 2015  
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