



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-82,046-01

EX PARTE TIMOTHY GISH, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 64502-A
IN THE 23RD DISTRICT COURT FROM BRAZORIA 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). Applicant pleaded guilty to online solicitation of a minor and was sentenced to ten years' imprisonment. He did not appeal his conviction.

This Court, in *Ex parte Lo*, held unconstitutional the online solicitation of a minor statute for which Applicant was convicted. *Ex parte Lo*, 424 S.W.3d 10 (Tex. Crim. App. 2013). Applicant filed this habeas application based on the *Lo* decision and asks that his conviction be set aside. The State recommends that relief be granted in this cause. We agree.

Relief is granted. The judgment in Cause No. 64502 in the 23rd District Court of Brazoria County is set aside and Applicant is remanded to the custody of the Sheriff of Brazoria County to answer the charges as set out in the indictment so that the indictment may be disposed of in accordance with this Court's opinion in *Ex parte Lo*. 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: February 24, 2016
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