

Withdrawn
3-16-16



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NOS. WR-83,801-01; WR-83,801-02

EX PARTE MATTHEW KENNON MERCER, Applicant

ON APPLICATIONS FOR WRITS OF HABEAS CORPUS
CAUSE NOS. W380-80046-10-HC & W380-80047-10-HC
IN THE 380TH DISTRICT COURT FROM COLLIN 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 these applications for writs of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). In two cause numbers, Applicant was convicted of three counts of online solicitation of a minor. Tex. Penal Code § 33.021(b). He was sentenced to five years' imprisonment for each conviction. He did not appeal his convictions.

In *Ex parte Lo*, we declared § 33.021(b) unconstitutional. *Ex parte Lo*, 424 S.W.3d 10 (Tex. Crim. App. 2013). Applicant now contends that in light of *Lo* his convictions are no longer valid. We agree. *Ex parte Chance*, 439 S.W.3d 918 (Tex. Crim. App. 2014). Relief is granted. The trial

court is ordered to enter a judgment of acquittal in cause numbers 380-80046-10 & 380-80047-10 in the 380th District Court of Collin County. 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: January 13, 2016

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