



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-84,524-01

EX PARTE TERRY JIMENEZ, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 20100D04694-01 IN THE 409TH DISTRICT COURT
FROM EL PASO 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 was convicted of two counts of online solicitation of a minor. TEX. PENAL CODE § 33.021(b) & (c). He was sentenced to imprisonment for four years on each count. He did not appeal his convictions.

In *Ex parte Lo*, this Court 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 Applicant now contends that in light of *Lo* his conviction for count I is no longer valid. The habeas court has entered agreed findings of fact recommending that relief

be granted. *Ex parte Chance*, 439 S.W.3d 918 (Tex. Crim. App. 2014). The court's findings are supported by the record. Relief is granted. Applicant's conviction for count I in cause number 20100D04694 is set aside and this cause is remanded to the trial court to dismiss count I of the indictment.

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

Delivered: September 14, 2016
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