



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-85,151-04

EX PARTE RAYMOND ANDREW DEBA, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 08-8-4438-CR IN THE 24TH DISTRICT COURT
FROM GOLIAD 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 twenty years' imprisonment. He did not appeal his conviction.

Applicant contends that his conviction in this case violates the constitutional prohibition on double jeopardy. His claims are without merit. However, it is evident from the face of the record that Applicant's conviction in this case was had pursuant to former Section 33.021(b) of the Texas Penal Code, a statute which this Court held to be unconstitutional. *Ex parte Lo*, 424 S.W.3d 10

(Tex. Crim. App. 2013).

Relief is granted. The judgment in Cause No. 08-08-4438-CR in the 24th District Court of Goliad County is set aside, and Applicant is remanded to the custody of the Sheriff of Goliad County 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: September 14, 2016
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