



IN THE COURT OF CRIMINAL APPEALS
OF TEXAS

NO. WR-87,738-01

EX PARTE WYLIE KYLE MITCHAM, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 12,069 JD
IN THE 1A DISTRICT COURT FROM JASPER COUNTY**

***Per curiam.* YEARY J. filed a concurring opinion. NEWELL, J. filed a concurring opinion in which KELLER P.J., HERVEY and RICHARDSON, JJ., joined.**

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, after a period of deferred adjudication, was sentenced to three 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.

Relief is granted. The judgment in Cause No. 12,069 JD in the 1A Judicial District Court of Jasper County is set aside and Applicant is remanded to the custody of the Sheriff of Jasper County to answer the charges as set out in the information so that the information 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 14, 2018
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