



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

**NOS. WR-87,963-01 & WR-87,963-02**

**EX PARTE DAVID PAUL COLEMAN, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. B14449 IN THE 198TH DISTRICT COURT  
FROM KERR COUNTY**

**YEARY, J., filed a dissenting opinion.**

## **DISSENTING OPINION**

Today, the Court grants post-conviction relief to an applicant who pled guilty to two counts of online solicitation of a minor in violation of Section 33.021(b) of the Penal Code.

Applicant admitted, by judicial confession, that:

on or about August 23, 2013, and before the presentment of this indictment, in said county and state, then and there, being a person who was 17 years of age or older, with the intent to arouse or gratify the sexual desire of the [Applicant], intentionally communicate by an electronic message service in a sexually explicit manner, to-wit: discussed his ability to ejaculate, with R.H., a minor[, and]

on or about August 23, 2013, and before the presentment of this indictment, in said county and state, did then and there, being a person who

was 17 years of age or older, with the intent to arouse or gratify the sexual desire of the [Applicant], intentionally distribute by an electronic message service sexually explicit material, to-wit: photographs of [male genitalia], with R.H., a minor.

I dissent for the reasons stated in my dissenting opinions in *Ex parte Fournier*, 473 S.W.3d 789, 800–805 (Tex. Crim. App. 2015) (Yeary, J., dissenting) and *Ex parte Chavez*, No. WR-87,785-01, 2018 WL 1109534 (Tex. Crim. App. Feb. 28, 2018) (Yeary, J., dissenting).

DELIVERED: March 28, 2018  
DO NOT PUBLISH