



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

**NO. WR-88,187-01**

**EX PARTE JEFFREY THOMAS HONOLKA, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 1157705-A IN CRIMINAL DISTRICT COURT NO. 1  
FROM TARRANT COUNTY**

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

## **DISSENTING OPINION**

Today, the Court grants post-conviction relief to an applicant who pled guilty to one count of online solicitation of a minor in violation of Section 33.021(b) of the Penal Code. Majority Opinion at 1–2 (granting relief on the basis that Section 33.021(b) had been declared unconstitutionally overbroad in *Ex parte Lo*, 424 S.W.3d 10 (Tex. Crim. App. 2013)). Applicant admitted, by judicial confession, that:

on or about the 9th day of January 2009, did then and there, being over 17 years of age, intentionally and knowingly, over the internet or a commercial

on-line service, with intent to arouse or gratify the sexual desire of any person, communicate in a sexually explicit manner with a minor, to wit: by describing sexual contact and masturbation with an individual who represented them self to be younger than 14 years of age or was an individual who the defendant believed to be younger than 14 years of age.

I dissent from the Court's decision granting post-conviction relief 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).

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DO NOT PUBLISH