



## IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-88,227-01**

**EX PARTE COLTON ALAN LESTER, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. 23,538-A IN THE 258TH DISTRICT COURT  
FROM POLK COUNTY**

*Per curiam.* Yeary, J., filed a concurring 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 attempted online solicitation of a minor and sentenced to imprisonment. TEX. PENAL CODE § 33.021(b). There was no direct appeal.

In *Ex parte Lo*, this Court declared the statute of conviction, § 33.021(b), unconstitutional. *Ex parte Lo*, 424 S.W.3d 10 (Tex. Crim. App. 2013). The trial court, with the State's agreement, finds that Applicant's conviction is not valid in light of *Ex parte Lo*. This Court agrees. *Ex parte*

*Chance*, 439 S.W.3d 918 (Tex. Crim. App. 2014).

Relief is granted. The judgment of conviction for attempted online solicitation of a minor in cause number 23,538 from the 258th District Court of Polk County is set aside, and the cause is remanded to the trial court to dismiss 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: April 11, 2018

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