



# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

**NO. WR-89,524-01**

**EX PARTE DARRELL DON BENEDICT, Applicant**

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS  
CAUSE NO. F-2007-0092-D WHC1  
IN THE 362<sup>ND</sup> DISTRICT COURT FROM DENTON COUNTY**

*Per curiam. Yeary, J. filed a dissenting opinion with which Slaughter, J. 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 was sentenced to twelve months' incarceration in state jail. He did not appeal his conviction.

This sentence has discharged, but Applicant is suffering collateral consequences from this conviction. Applicant contends that the statute under which he was convicted was found to be unconstitutional.

Applicant is entitled to relief. 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. The State recommends that relief be granted in this cause. We agree.

Relief is granted. The judgment in Cause No. F-2007-0092-D in the 362<sup>nd</sup> District Court of Denton County is set aside and Applicant is remanded to the custody of the Sheriff of Denton County to answer the charges as set out in the indictment so that the indictment may be dismissed in accordance with this Court's opinions in *Ex parte Lo*, *Ex parte Fournier*, and *Ex parte Dowden*. 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 27, 2019  
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