



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-92,488-01

EX PARTE KENNETH EUGENE RICE, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. F45892-B
IN THE 18TH DISTRICT COURT FROM JOHNSON COUNTY**

Per curiam. Yeary, J. filed a dissenting opinion joined by Slaughter, J.

OPINION

Applicant was convicted of online solicitation of a minor and sentenced to ten years' imprisonment in count one of this cause. He filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

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 count one of Cause No. F45892 in the 18th District Court of Johnson County is set aside and Applicant is remanded to the custody of the Sheriff of Johnson 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* 473 S.W.3d 789 (Tex. Crim. App. 2015). 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: April 14, 2021
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