

**Reverse and Remand; Opinion Filed November 21, 2014.**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

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**No. 05-12-00923-CR**

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**COREY THOMAS FREEMAN, Appellant  
V.  
THE STATE OF TEXAS, Appellee**

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**On Appeal from the 401st Judicial District Court  
Collin County, Texas  
Trial Court Cause No. 401-80780-2011**

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**MEMORANDUM OPINION ON REMAND**

Before Justices Lang, Myers, and Evans  
Opinion by Justice Evans

Corey Thomas Freeman was convicted of online solicitation of a minor under section 33.021(b) of the Texas Penal Code. On September 10, 2013, we affirmed the trial court's judgment. *See Freeman v. State*, No. 05-12-00923-CR, 2013 WL 4805698 (Tex. App.—Dallas Sept. 10, 2013, pet. granted). After we issued our opinion and judgment, the Texas Court of Criminal Appeals issued its opinion in *Ex Parte Lo* holding that section 33.021(b) is facially unconstitutional. *See Ex Parte Lo*, 424 S.W.3d 10 (Tex. Crim. App. 2013). The court then granted Freeman's petition for review in this case, vacated our judgment, and remanded the cause for reconsideration in light of *Lo*. *See Freeman v. State*, 425 S.W.3d 289 (Tex. Crim. App. 2014) (per curiam).

A law that has been declared facially unconstitutional is void from its inception and cannot provide a basis for any right or relief. *See Ex Parte Chance*, 439 S.W.3d 918, 918–19

(Tex. Crim. App. 2014) (per curiam) (Cochran, J., concurring). For this reason, a person may always obtain relief from an indictment or conviction that was based on a penal statute that has been declared unconstitutional. *Id.* at 919. “No one can be convicted for a non-existent crime and no prior conviction based upon that unconstitutional statute is valid.” *Id.*

Freeman was convicted under a statute that has been declared facially unconstitutional. Because Freeman cannot lawfully be convicted for a crime that does not exist, we reverse the trial court’s judgment, remand the cause, and direct the trial court to dismiss the indictment.

/David Evans/  
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DAVID EVANS  
JUSTICE

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TEX. R. APP. P. 47  
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**Court of Appeals  
Fifth District of Texas at Dallas**

**JUDGMENT**

COREY THOMAS FREEMAN, Appellant

No. 05-12-00923-CR      V.

THE STATE OF TEXAS, Appellee

On Appeal from the 401st Judicial District  
Court, Collin County, Texas

Trial Court Cause No. 401-80780-2011.

Opinion delivered by Justice Evans.

Justices Lang and Myers participating.

Based on the Court's opinion of this date, the judgment of the trial court is **REVERSED** and the cause **REMANDED** with instructions to enter an order dismissing the indictment.

Judgment entered this 21st day of November, 2014.