

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAELYN LEE JOHNSON, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JASON HANS JOHNSON

Respondent-Appellant.

UNPUBLISHED

May 18, 2010

No. 294037

Mecosta Circuit Court

Family Division

LC No. 08-005345-NA

Before: OWENS, P.J., and SAWYER and O'CONNELL, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19(b)(3)(b)(i), (h), (j), (k)(ii), and (n)(i). We affirm.

We review for clear error the trial court's exercise of jurisdiction based on the mother's plea to the petition. *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004).¹ The allegations against the child's mother, that she left the child on many occasions with the maternal grandmother, an alcohol abuser, and the grandmother's partner, a known child molester, were statutorily sufficient if proven from evidence admitted at a trial or by plea to authorize the court to exercise jurisdiction over the child. *In re SLH*, 277 Mich App 662, 669; 747 NW2d 547 (2008). One respondent's plea to allegations in a neglect petition is sufficient to empower the court to exercise jurisdiction over the child provided the allegations satisfy the statutory requirements of MCL 712A.2(b). See *In re CR*, 250 Mich App 185, 202; 646 NW2d 506 (2002).

Here, the trial court erred in failing to comply with the requirements of MCR 3.971(B) when taking the mother's plea to the allegations in the petition. Although the court advised the mother at the time of her plea that she would be giving up her right to a jury trial and that her plea could be used against her if termination of her parental rights was sought, the court failed to

¹ Termination of respondent's parental rights was sought in the initial petition, and the termination hearing was the initial dispositional hearing. Therefore, respondent's attack on the adjudication is not collateral, but direct. *In re SLH*, 277 Mich App 662, 668-669; 747 NW2d 547 (2008).

advise her of the allegations in the petition, or that she would be giving up the rights to have the petitioner prove the allegations against her by a preponderance of the evidence, to have witnesses against her appear and testify under oath, to cross-examine witnesses, and to have the court subpoena any witnesses she believed could give testimony in her favor.

Assuming without deciding that respondent has standing to assert errors involving the mother's plea, we nonetheless conclude that respondent waived any error by failing to object to the defects in the plea taking on the grounds he now asserts. In response to the trial court's inquiry about whether respondent had any objection to the entry of the plea, respondent's trial counsel stated, "[t]he only thing I would cite, your Honor, is the – the Court of Appeals decision that there have to be allegations against the parent that enters the plea. I'm not sure that this rises to that level and I make that re – objection on my client's behalf." Objections must specify the same ground for challenge as the party seeks to assert on appeal. *People v Kimble*, 470 Mich 305, 309; 684 NW2d 669 (2004); *Klapp v United Ins Group Agency (On Remand)*, 259 Mich App 467, 475; 674 NW2d 736 (2003). Respondent's objection was to the legal sufficiency of the allegations against the mother, and not to the procedural form of the plea taking, and as a result, he has waived this issue. Generally, a party may not waive objection and then argue on appeal that the resultant action was error. *Holmes v Holmes*, 281 Mich App 575, 587, 588; 760 NW2d 300 (2008); *Bonkowski v Allstate Ins Co*, 281 Mich App 154, 168; 761 NW2d 784 (2008); *People v Aldrich*, 246 Mich App 101, 111; 631 NW2d 67 (2001); *People v McCray*, 210 Mich App 9, 14; 533 NW2d 359 (1995).

Affirmed.

/s/ Donald S. Owens
/s/ David H. Sawyer
/s/ Peter D. O'Connell