

STATE OF MICHIGAN  
COURT OF APPEALS

---

UNPUBLISHED  
November 29, 2012

In the Matter of T. VANSYCKLE, Minor.

No. 310357  
Mecosta Circuit Court  
Family Division  
LC No. 10-005640-NA

---

Before: SERVITTO, P.J., and MARKEY and MURRAY, JJ.

PER CURIAM.

Respondent father (respondent) appeals by right the trial court's order assuming jurisdiction over respondent's daughter, TV, on the basis of a plea agreement with respondent mother. Respondent argues that mother's plea is insufficient to establish the trial court's jurisdiction under MCL 712A.2(b). We affirm.

On January 5, 2012, Child Protective Services (CPS) filed a petition requesting that the trial court take jurisdiction over TV and another of respondents' minor children (JS) under MCL 712A.2(b)(1) (neglecting to provide proper or necessary support to a child subject to a substantial risk of harm) and MCL 712A.2(b)(2) (the child's home or environment is unfit due to neglect, cruelty, drunkenness, criminality, or depravity). The petition alleged that respondent had sexually abused JS and that mother had not protected her even though she knew of the assault. The petition requested that the trial court terminate the parental rights of respondent and mother under MCL 712A.19b(3)(b)(i) (a parent physically or sexually the child), MCL 712A.19b(3)(j) (a reasonable likelihood exists that the child will be harmed if returned to the parent's home), and MCL 712A.19b(3)(k)(ii) (the parent sexually abused the child with an act involving penetration, attempted penetration, or assault with intent to penetrate) After conducting a preliminary hearing, the trial court authorized the petition.

On March 23, 2012, mother pleaded no contest to the allegations in the petition. In return, CPS agreed not to pursue a termination of her parental rights. Following entry of the plea, the trial court issued an order of adjudication, concluding that there were statutory grounds to exercise jurisdiction over the children. Thereafter, respondent filed a motion to rescind the trial court's order of adjudication, which the court denied after a hearing. After respondent had filed an appeal in this Court, CPS supplemented its petition seeking a termination of mother's parental rights based on violations of her plea agreement.

We review the trial court's factual findings regarding its assumption of jurisdiction for clear error. *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). A trial court's factual

findings “are clearly erroneous where there is no evidentiary support for them or where there is supporting evidence but the reviewing court is nevertheless left with a definite and firm conviction that the trial court made a mistake.” *Hill v City of Warren*, 276 Mich App 299, 308; 740 NW2d 706 (2007). We accord “great deference” to the trial court’s superior fact-finding ability. *Id.*; MCR 2.613(C).

The adjudicative phase of child protective proceedings requires the trial court to determine whether it has jurisdiction over the child in question. *In re Utrera*, 281 Mich App 1, 15-16; 761 NW2d 253 (2008). If the trial court’s jurisdiction is established, the next step in the protective proceeding is the dispositional phase where the court determines what action, if any, it will take on behalf of the child. *Id.* at 16. The court’s jurisdiction may be established either by a respondent’s plea, MCR 3.971(A), or by trial at which at least one statutory basis for jurisdiction under MCL 712A.2(b) is proved by a preponderance of the legally admissible evidence, MCR 3.972. *In re SLH*, 277 Mich App 662, 669; 747 NW2d 547 (2008). The trial court can accept a plea of no contest as the statutory basis for jurisdiction. *Id.*; MCR 3.971(A). But, the plea must be made by a respondent, defined in MCR 3.903(C)(10) as a parent, guardian, or nonparent adult, who has allegedly committed an offense against a child. That brings the child within the court’s jurisdiction. *In re SLH*, 277 Mich App at 669. Once the trial court has acquired jurisdiction over the child, it may take measures “against any adult.” MCR 3.973(A); *In re CR*, 250 Mich App 185, 202-203; 646 NW2d 506 (2002). The trial court “need not separately ascertain whether it has jurisdiction over each parent.” *In re LE*, 278 Mich App 1, 17; 747 NW2d 883 (2008). Here, the trial court assumed jurisdiction under MCL 712.A(b)(1) and (2) on the basis of mother’s plea.

Respondent relies on *In re SLH* in support of his argument that mother’s plea is insufficient to establish the trial court’s jurisdiction. In that case, a mother’s plea was held insufficient to establish jurisdiction over the minor children because the petition did not allege that the mother had done anything to confer jurisdiction on the court. *In re SLH*, 277 Mich App at 670. In other words, the mother in that case did not meet the definition of “respondent.” *Id.*; MCR 3.903(C)(10). Here, mother is a co-respondent. Accordingly, mother’s plea, if voluntary and accurate, MCR 3.972(C), provides a sufficient factual basis for jurisdiction under MCL 712A.2(b)(1) and (2). *In re LE*, 278 Mich App at 17.

Respondent argues in essence that the plea was not accurate because the record is “devoid of facts to establish” jurisdiction, and that “no evidence was presented that [mother] failed to protect her child, or that the home environment was not suitable.” We disagree. MCR 3.971(C)(2) provides as follows:

The court shall not accept a plea of admission or of no contest without establishing support for a finding that one or more of the statutory grounds alleged in the petition are true, preferably by questioning the respondent unless the offer is to plead no contest. If the plea is no contest, the court shall not question the respondent, but, by some other means, shall obtain support for a finding that one or more of the statutory grounds alleged in the petition are true. The court shall state why a plea of no contest is appropriate.

Here, the trial court found a sufficient factual basis for accepting mother's plea of no contest based on testimony by CPS investigator, Adam Cecil.

Cecil testified that on January 5, 2011, JS spontaneously disclosed that respondent had sexually abused her. Mother's attorney then raised a hearsay objection, arguing that the evidence used to establish the factual basis for the plea needs to be "legally admissible." After an untranscribed conference, it was agreed that a written summary of Cecil's interview of JS conducted on January 5, 2012 would be entered as an exhibit, and the parties stipulated that the exhibit would be used to establish the factual basis for the plea.

In the transcribed interview, JS told Cecil that "Mr. Rick showed me his privates." She also said that respondent "told me to suck his wee wee, but I didn't do. He just . . . put his hand on my head and made me do it." She also told Cecil that "when mom came home, mom told him don't do it but he didn't listen to mom." She repeated this assertion several times. JS also told Cecil that what she had said was the truth.<sup>1</sup> The parties agreed that the factual basis for assuming jurisdiction had been established.

The trial court did not err in concluding that mother's no contest plea was voluntary, accurate, and established its jurisdiction under MCL 712A.2(b)(1) and (2).

We affirm.

/s/ Deborah A. Servitto  
/s/ Jane E. Markey  
/s/ Christopher M. Murray

---

<sup>1</sup> Cecil confirmed that the transcript contains assertions of sexual contact between JS and respondent-father, as well as a statement by JS that mother was aware of the abuse.