



**Fourth Court of Appeals**  
**San Antonio, Texas**

**MEMORANDUM OPINION**

No. 04-17-00017-CV

Petra **AGUILERA** d/b/a Kids Connection Preschool and Youth Center Development Center,  
Appellant

v.

Yolanda Irma **PEREZ**,  
Appellee

From the 63rd Judicial District Court, Val Verde County, Texas  
Trial Court No. 29600  
Honorable Enrique Fernandez, Judge Presiding

Opinion by: Sandee Bryan Marion, Chief Justice

Sitting: Sandee Bryan Marion, Chief Justice  
Karen Angelini, Justice  
Patricia O. Alvarez, Justice

Delivered and Filed: October 11, 2017

**AFFIRMED**

Appellee Yolanda Perez was a day care center teacher employed by appellant Petra Aguilera who operated Kids Connection Preschool and Youth Development Center. Perez made allegations to her immediate supervisor and the assistant director of the Center that another teacher improperly disciplined two children. Less than a month later, Perez reported the allegations to the Child Care Licensing Division of the Texas Department of Family and Protective Services. Perez was later fired, and she subsequently sued Aguilera for retaliatory termination. A jury rendered a verdict in favor of Perez, and Aguilera now appeals.

In two issues, Aguilera asserts the trial court erred by (1) denying her oral motion for a directed verdict and (2) refusing to accept the jury verdict with the attached original certificate. Because we conclude Aguilera waived both complaints, we affirm.

### **DIRECTED VERDICT**

If a party proceeds to present evidence after moving for a directed verdict, the party must re-urge the motion for directed verdict at the close of the case, or any error in its denial is waived. *Ratsavong v. Menevilay*, 176 S.W.3d 661, 667 (Tex. App.—El Paso 2005, pet. denied); *1986 Dodge 150 Pickup Vin No. 1B7FD14T1GS006316 v. State*, 129 S.W.3d 180, 183 (Tex. App.—Texarkana 2004, no pet.); *Cliffs Drilling Co. v. Burrows*, 930 S.W.2d 709, 712 (Tex. App.—Houston [1st Dist.] 1996, no writ).

Here, at the close of Perez's case-in-chief, Aguilera moved for a directed verdict. The trial court denied the motion, and Aguilera began her case-in-chief. After Aguilera rested, she did not re-urge her motion for a directed verdict. Therefore, Aguilera waived her complaint on appeal.

### **CERTIFICATE OF VERDICT**

After the jury returned its verdict, it also submitted a Certificate, which stated the verdict was not unanimous because only eleven of the twelve jurors agreed to every answer. The trial court asked the jury to re-read the instructions for two questions, handed the Certificate back to the jury, and excused the jury back to the jury room. Following a question on whether they needed a new Certificate page, the trial court instructed the jury to cross through the page and complete a new page. The jury then returned an Amended Certificate, which stated the verdict was unanimous because all twelve of the jurors agreed to every answer. After finding the verdict to be in proper form, the trial court asked if either party "had a motion." Not hearing from either party, the trial court accepted the verdict. In her second issue, Aguilera asserts the trial court erred when it refused to accept the jury's first Certificate.

To preserve a complaint for appellate review, a party must present to the trial court a timely request, objection, or motion “with sufficient specificity to make the trial court aware of the complaint, unless the specific grounds were apparent from the context.” TEX. R. APP. P. 33.1(a)(1)(A); *see also Lewis v. Tex. Emp’rs’ Ins. Ass’n.*, 151 Tex. 95, 246 S.W.2d 599, 601 (Tex. 1952) (“for most procedural errors to be considered on appeal the defendant must by timely objection give the trial judge a chance to correct his errors”). Because Aguilera did not raise her complaint before the trial court, she waived her complaint on appeal.

### **CONCLUSION**

Aguilera did not preserve her two complaints for appellate review; therefore, we affirm the trial court’s judgment.

Sandee Bryan Marion, Chief Justice