

STATE OF MICHIGAN
COURT OF APPEALS

In re RINCONES/RINCONES-CALANDRINO,
Minors.

UNPUBLISHED
December 8, 2015

No. 327495
Kent Circuit Court
Family Division
LC Nos. 13-052244-NA;
13-052245-NA

Before: OWENS, P.J., and MURPHY and HOEKSTRA, JJ.

PER CURIAM.

Respondent-mother appeals as of right the trial court's order terminating her parental rights to the two minor children following the court's acceptance of respondent's plea admitting the allegations in the termination petition. We affirm.

The trial court took jurisdiction over the minor children on September 19, 2013, because of respondent's history of abuse, neglect, domestic violence, substance abuse, criminality, incarceration, and abandonment. She is currently imprisoned. On April 14, 2015, respondent informed the trial court that she did not wish to contest the termination of her parental rights to the children. The trial court explained to respondent each of the rights that she was giving up by making a plea of admission to the petition seeking termination of her parental rights, and she expressed her understanding of those rights and the associated waivers. Respondent entered a plea of admission with respect to the allegations contained in the termination petition and agreed that termination was in the best interests of the children. Respondent indicated that she was unable to provide a safe, stable, and non-neglectful home environment for the children, that she would be unable to do within a reasonable amount of time, and that she did not contest the termination of her parental rights. The trial court elicited testimony from respondent reflecting that she was admitting the petition without any threats, coercion, or promises. Respondent's counsel noted her belief that respondent's admissions were made knowingly, voluntarily, and understandingly.

On appeal, respondent argues that the trial court's termination order should be reversed because the trial court failed to inform her that her obligation to pay child support for the minor children would continue after the termination of her parental rights. Respondent contends that the trial court was required to do so under MCR 3.971(B)(4), which mandates that a court, before accepting a plea, inform a parent "of the consequences of the plea." Because respondent failed to raise this argument in the trial court, we review for plain error affecting her substantial rights.

In re Utrera, 281 Mich App 1, 8-9; 761 NW2d 253 (2008). “[A]n error affects substantial rights if it caused prejudice, i.e., it affected the outcome of the proceedings.” *Id.* at 9.

An initial and fatal flaw in respondent’s argument is that she fails to even allege, let alone refer us to, any evidence showing, that she would not have voluntarily made a plea of admission had the trial court informed her of the continuing obligation to pay child support. Accordingly, respondent has failed to establish any prejudice, assuming error by the trial court, as the presumed error did not affect the outcome of the proceedings.

Furthermore, “[b]iological parents have an inherent obligation to support their children[,]” *Macomb Co Dep’t of Social Servs v Westerman*, 250 Mich App 372, 377; 645 NW2d 710 (2002), citing *Evink v Evink*, 214 Mich App 172, 175-176; 542 NW2d 328 (1995), as well as having a statutory support obligation, MCL 722.3(1); *In re Beck*, 488 Mich 6, 12; 793 NW2d 562 (2010) (“The . . . parental obligation identified in MCL 722.3 is the duty to provide a child with support.”); *Diez v Davey*, 307 Mich App 366, 376; 861 NW2d 323 (2014). Respondent’s continuing obligation to pay child support was not a “consequence[] of the plea” taken by the trial court under MCR 3.971. Rather, it was an obligation or duty imposed by law that survived the termination of respondent’s parental rights. *Beck*, 488 Mich at 15 (even after parental rights are terminated, the obligation to pay child support continues absent a court modifying or terminating the obligation). Because respondent’s obligation to pay child support was ongoing and not a consequence of the plea, the trial court had no duty under MCR 3.971(B)(4) to inform her that the obligation would continue after the court’s acceptance of her plea.

Affirmed.

/s/ Donald S. Owens
/s/ William B. Murphy
/s/ Joel P. Hoekstra