

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DOMINIC DAVID MITCHELL,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

REBECCA JACOBSON,

Respondent-Appellant,

and

CHANCE HEPINSTALL,

Respondent.

UNPUBLISHED

June 23, 2005

No. 258918

Oakland Circuit Court

Family Division

LC No. 04-696465-NA

Before: O'Connell, P.J., and Schuette and Borrello, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(i) and (l). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Respondent-appellant argues that she was denied the effective assistance of counsel because her counsel advised her to make a plea of admission to the allegations in the petition with the understanding that the child's biological father would be able to gain custody of the child after establishing his paternity. Respondent-appellant claims that she never would have admitted the allegations had she known that the biological father would not be allowed to prove his paternity. Because respondent-appellant did not raise this issue in the trial court or seek any type of *Ginther*¹ hearing, we limit our review of her claims to mistakes apparent on the record. *People v Riley (After Remand)*, 468 Mich 135, 139; 659 NW2d 611 (2003).

¹ *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1973).

To establish a claim of ineffective assistance of counsel, a defendant must show both that counsel's performance was deficient and that counsel's deficient performance prejudiced the defense. In order to demonstrate that counsel's performance was deficient, the defendant must show that it fell below an objective standard of reasonableness under prevailing professional norms. [*Id.* at 140, citations omitted.]

When reviewing a claim of ineffective assistance of counsel arising out of a plea, the reviewing court must determine whether the respondent understood the plea and voluntarily offered it. *People v Thew*, 201 Mich App 78, 89; 506 NW2d 547 (1993).

Here, respondent-appellant's argument fails because the record does not support her claim. There is nothing in the record to demonstrate that respondent-appellant's plea resulted from a misunderstanding with her counsel. Further, as respondent-appellant admits in her brief on appeal, the trial court properly advised respondent-appellant of the rights she was giving up and the consequences of her plea pursuant to MCR 3.971(B).

Affirmed.

/s/ Peter D. O'Connell

/s/ Bill Schuette

/s/ Stephen L. Borrello