

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TOBY LEE OWEN II, SHAMEEKA
YVONNE OWEN, and JESSICA NICOLE OWEN,
Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MARY KATHERINE OWEN,

Respondent-Appellant,

and

TOBY OWEN, SR.,

Respondent.

UNPUBLISHED

February 16, 1999

No. 213066

Ingham Circuit Court

Family Division

LC No. 004187

Before: Murphy, P.J., and MacKenzie and Talbot, JJ.

PER CURIAM.

Respondent-appellant Mary Owen (hereinafter “respondent”) appeals as of right from a lower court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(i), (g) and (j); MSA 27.3178 (598.19b)(3)(b)(i), (g) and (j).¹ We affirm.

Respondent first contends that the lower court erred in finding her six-year-old son competent to testify pursuant to MCL 600.2163; MSA 27A.2163.² Because respondent did not timely object at trial to the admission of the child’s testimony as incompetent, this issue is not preserved for appeal. *In re Weiss*, 224 Mich App 37, 39; 568 NW2d 336 (1997); *People v Cobb*, 108 Mich App 573, 575; 310 NW2d 798 (1981). In any event, even if a timely objection had been made, there is no clear

indication that the child witness was not competent to testify. Therefore, appellate relief is not warranted. *Id.*

Respondent next contends that the lower court gave undue weight to the psychological expert's testimony, which respondent contends was inconsistent with the expert's prior written report and with the testimony of lay witnesses. Again, respondent failed to preserve this issue for appeal by making a timely objection below. *In re Weiss, supra*. In any event, once an expert's testimony is admitted, the weight and credibility it is to be given are issues for the trier of fact, *Witt v Chrysler Corp*, 15 Mich App 576, 580; 167 NW2d 100 (1969), and this Court affords great deference to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Finally, respondent's claim that petitioner failed to present clear and convincing evidence in support of the statutory grounds for termination is not properly before this Court because respondent did not include this issue in her statement of the questions involved. MCR 7.212(C)(5); *City of Lansing v Hartsuff*, 213 Mich App 338, 351; 539 NW2d 781 (1995). Further, respondent's arguments are directed primarily at the credibility of the various witnesses. According deference to the lower court's special opportunity to view and observe the witnesses who appeared before, we find no clear error in the court's assessment and resolution of the credibility of the witnesses. *In re Miller, supra*.

Affirmed.

/s/ William B. Murphy
/s/ Barbara B. MacKenzie
/s/ Michael J. Talbot

¹ Although the juvenile court cited §19b(3)(g) in support of its finding that respondent-appellant's parental rights should be terminated, the reasons underlying that finding indicate that the court may have been relying on § 19b(3)(b)(ii).

² This statute was repealed by 1998 PA 323 shortly after the termination hearing was conducted.