

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of HEAVENLY PRECIOUS ANGEL
PEARSON CARTER, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

STEPHANIE LATRICE PEARSON,

Respondent-Appellant,

and

REGINALD CARTER,

Respondent.

In the Matter of DE'RAY GEMINI DA'TUNE
WILLIAMS, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

STEPHANIE LATRICE PEARSON,

UNPUBLISHED

August 21, 2001

No. 231827

Saginaw Circuit Court

Family Division

LC No. 99-025992-NA

No. 231828

Saginaw Circuit Court

Family Division

LC No. 99-025833-NA

Respondent-Appellant,

and

RAYCHAN WILLIAMS,

Respondent.

Before: Fitzgerald, P.J., and Gage and C. H. Miel*, JJ.

PER CURIAM.

In these consolidated appeals, respondent-appellant appeals as of right from the family court orders terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g) and (j). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Respondent argues that the trial court erred in relying on testimony of a clerical person regarding low creatinine levels on respondent's drug screen reports. We disagree. Respondent failed to preserve this issue for appeal by objecting at trial. *In re King*, 186 Mich App 458, 465; 465 NW2d 1 (1990). In any event, regard is given 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). The question of the witness' qualifications was a matter of weight and credibility for the trier of fact. *People v Towlen*, 66 Mich App 577, 579; 239 NW2d 668 (1976). Accordingly, respondent's argument does not provide a basis for appellate relief.

Respondent also argues that her due process rights were violated because the deposition testimony of five witnesses was admitted in lieu of live testimony, depriving the trier of fact of the opportunity to assess the demeanor and credibility of the witnesses. We disagree. Not only did respondent fail to object to the trial court's review of the deposition transcripts, thereby waiving appellate review of this claim absent outcome determinative error, *In re Osborne*, 237 Mich App 597, 600; 603 NW2d 824 (1999), but her attorney apparently agreed to the procedure whereby depositions would be taken and presented to the trial court in lieu of live testimony in order to move the case along and accommodate conflicting schedules (including the scheduling conflicts of respondent's own attorney). In fact, two of the witnesses who gave depositions were respondent's own witnesses. A party may not assign error on appeal to a matter which his lawyer deemed proper at trial. *People v Green*, 228 Mich App 684, 691; 580 NW2d 444 (1998). To do so would allow a party to harbor error as an appellate parachute. *Id.* Even if respondent only acquiesced in the presentation of the depositions to the trial court, a party may not waive objection to an issue before the trial court and then raise the issue as an error on appeal. *People v Fetterley*, 229 Mich App 511, 520; 583 NW2d 199 (1998).

* Circuit judge, sitting on the Court of Appeals by assignment.

In any event, because respondent failed to preserve this claim, she must establish prejudice by showing that the error could have been decisive to the outcome of the case. *Osborne, supra* at 600. However, respondent fails to indicate any prejudice by the admission of the deposition testimony. Respondent merely claims that the trial court did not have the opportunity to observe the demeanor of the witnesses. She does not indicate how such an opportunity would have affected the outcome of this case. Accordingly, respondent has not established a basis for appellate relief.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Hilda R. Gage

/s/ Charles H. Miel