

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of J.G. and C.U., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

NICOLE GRESS,

Respondent-Appellant.

UNPUBLISHED

July 23, 2002

No. 238130

Macomb Circuit Court

Family Division

LC No. 99-048091-DE

Before: Gage, P.J., and Cavanagh and Wilder, JJ.

MEMORANDUM.

In this child protection proceeding, respondent appeals as of right from an order adjudicating the minor children as being within the court's jurisdiction pursuant to MCL 712A.2(b)(1) and (2), following a jury trial. We affirm.

Respondent argues that the prosecutor committed misconduct by arguing, during closing argument, that his witnesses were believable and that respondent was lying. Because respondent did not object to the challenged remarks at trial, we review this unpreserved issue for plain error affecting respondent's substantial rights. Cf. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999); *In re Trowbridge*, 155 Mich App 785, 786; 401 NW2d 65 (1986) (applying criminal concepts by analogy in a child protection proceeding).

"A prosecutor may not vouch for the credibility of a witness, nor suggest that the government has some special knowledge that the witness is testifying truthfully." *People v Howard*, 226 Mich App 528, 548; 575 NW2d 16 (1997). However, a prosecutor may argue that a witness is credible or that the defendant or another witness is not worthy of belief. *Id.* In this case, the record reveals that the prosecutor's arguments were based on the evidence presented at trial. Plain error has not been shown.

Respondent also argues that the jury's verdict was against the great weight of the evidence. Respondent did not preserve this issue by raising it in an appropriate motion before the trial court. See *Buckeye Marketers, Inc v Finishing Services, Inc*, 213 Mich App 615, 616-617; 540 NW2d 757 (1995). Regardless, it is apparent that the verdict was clearly not against the great weight of the evidence. See *People v Lemmon*, 456 Mich 625, 635-636; 576 NW2d

129 (1998). Although respondent denied the evidence against her, she failed to substantially impeach the testimony of the other witnesses.

Affirmed.

/s/ Hilda R. Gage
/s/ Mark J. Cavanagh
/s/ Kurtis T. Wilder