

United States Court of Appeals
For the Eighth Circuit

No. 25-2743

United States of America

Plaintiff - Appellee

v.

Anfernee Rondeau

Defendant - Appellant

Appeal from United States District Court
for the District of South Dakota - Western

Submitted: May 13, 2026

Filed: August 17, 2026

Before L.R. SMITH, BENTON, and STRAS, Circuit Judges.

L.R. SMITH, Circuit Judge.

A jury convicted Anfernee Rondeau of aggravated sexual abuse of a minor in violation of 18 U.S.C. §§ 1153, 2241(c), and 2246(2)(D), and the district court¹ sentenced him to the statutory minimum of 360 months' imprisonment. Rondeau now appeals arguing that his conviction was not supported by substantial evidence.

¹The Honorable Camela C. Theeler, United States District Judge for the District of South Dakota.

In the alternative, Rondeau argues that the district court plainly erred by permitting the government to present evidence that he declined to proceed with a polygraph test and permitting the government to remind the jury of his declination. We affirm.

I. Background

In April 2024, Rondeau spent the night with his girlfriend G.W.B. and her six-year-old daughter C.A. in a home where G.W.B. temporarily lived with relatives in Manderson, South Dakota. Late that night, G.W.B. and Rondeau returned home after a night of heavy drinking. G.W.B. later testified that she had consumed “a jug of vodka” with several other people. R. Doc. 101, at 85. G.W.B. next remembered her young niece C.W.B. trying to wake her. She recalls speaking with an officer, being arrested by tribal police, and waking up in “the drunk tank.” *Id.* at 87. The following day, she saw Rondeau in court and observed that he had a black eye. Based on a police investigation of that night, Rondeau was charged with aggravated sexual abuse of a minor (C.A.) and taken into custody.

In September 2024, Rondeau agreed to undergo a polygraph test. FBI Agent William Waters arranged for FBI Agent Brenda Kane to conduct the test. Prior to the actual polygraph, Agent Kane conducted an unrecorded pretest interview with Rondeau. During the interview, which addressed the facts underlying the charges, Rondeau became upset. He expressed sorrow for his actions and a desire to apologize to C.A. and G.W.B. Agent Kane advised Rondeau that the actual polygraph examination would delve into the details of his actions leading to the charges against him. Rondeau then declined to proceed with the actual polygraph examination. The interview continued. At Agent Kane’s suggestion, Rondeau dictated and signed a statement transcribed by Agent Kane containing his apology to G.W.B. and a statement of remorse for C.A.’s trauma, which indicated that he did not mean to hurt C.A. No polygraph examination was conducted.

Rondeau was charged with one count of aggravated sexual abuse of a minor, in violation of 18 U.S.C. §§ 1153, 2241(c), and 2246(2)(D). The indictment alleged:

On or about between April 4, 2024, and April 5, 2024, in Indian country, in the District of South Dakota, the defendant, Anfernee Rondeau, an Indian person, did knowingly engage and attempt to engage in a sexual act with [C.A.], a person who has not attained the age of 12 years, that is: the intentional touching, not through the clothing, of the genitalia of [C.A.], who had not attained the age of 16 years, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, all in violation of 18 U.S.C. §§ 1153, 2241(c), and 2246(2)(D).

R. Doc. 50, at 1.

Before trial, Rondeau filed a motion in limine to prevent the government from discussing his aborted polygraph examination. The government did not oppose the motion, and the district court granted it. Rondeau later moved to withdraw the motion, and the government did not object to its withdrawal. The district court ruled that it would “allow Defendant to ask questions about [whether the interview] was recorded, and if it was indicated it was not recorded, [he] could ask, why not.” R. Doc. 101-2, at 4. The district court also instructed the “parties to not spend a lot of time talking about it.” *Id.*

At trial, C.W.B. testified about that night’s events. She recalled seeing Rondeau carry six-year-old C.A. into G.W.B.’s bedroom. C.W.B. described being awakened by a cousin who told her that C.A. was crying. C.W.B. testified that she got up to check on C.A. and that, as she approached G.W.B.’s bedroom, she could hear C.A. crying inside the room. She looked through a crack in the door and saw C.A. lying on her back with Rondeau on top of her and saw G.W.B. passed out next to them. She testified that Rondeau’s hands were wrapped around C.A.’s body and that he was moving up and down. Specifically, C.W.B. testified that she observed Rondeau straddled over C.A., moving his body “up and down,” with his knees bent. R. Doc. 101-1, at 42. C.W.B. also testified that she intervened; she pushed Rondeau off of C.A., causing Rondeau to move away and “cover his parts kinda.” *Id.* at 30. She also testified that she saw C.A. pull up her pants and underwear after Rondeau was no longer on top of her. In addition, C.W.B. testified that she saw Rondeau’s

skin, including part of his “stomach,” *id.* at 33, and that his eyes looked “big,” as if caught doing something, *id.* at 37. She told the jury that his pants were unzipped and that although she could see the back of his boxers, she could not see the front. The jury also heard C.W.B. say that she knew what sexual intercourse was. As for C.A., C.W.B. testified that as they left the room, C.A. “walked like it hurt” and “very slow.” *Id.* at 32.

C.W.B. also testified about her recollection of Rondeau’s reaction to being found on top of C.A. She was asked:

Q. . . . Do you remember what [Rondeau] said to you when you stopped him from doing this to [C.A.]?

A. He said he didn’t do anything.

Q. And do you remember who he threatened to have come after you?

A. He said his brothers.

Q. What did he say?

A. He said, *I’ll have my brothers come do something.*

Q. How did that make you feel?

A. Scared and worried.

Q. Did you feel like he was going to have someone do something to you for witnessing what you saw?

A. Yes.

Id. at 38–39.

C.A. also testified. She told the jury that at the time of the event, she was seven years old and in first grade.² She testified that C.W.B. pushed Rondeau off of her, that what Rondeau did made her cry, and that his actions made her mad. She also testified that she “didn’t want to say” where Rondeau was touching her or what he did. R. Doc. 101, at 105. C.A. told the jury that Rondeau’s actions angered and scared her.

The jury heard from others as well. Pediatric sexual assault nurse examiner Frances Morgan testified that she observed “artifact” on C.A.’s “breast, her mons pubic, and the groin area.” R. Doc. 101-1, at 65. The jury received forensic evidence that male DNA was present on C.A.’s external genitalia and inner thigh swabs. Forensic scientist Jessika Kirkpatrick testified that she found male DNA present but could not form a profile due to “insufficient or not enough male DNA present.” *Id.* at 77. Expert witness Hollie Strand explained the difficulties of forensically interviewing children who did not independently disclose sexual abuse.

The government also called Agents Waters and Kane to testify about Rondeau’s pre-polygraph interview. Agent Kane testified about Rondeau’s unrecorded, written pre-polygraph statement of apology. Agent Kane also described what led to Rondeau not proceeding with the actual polygraph examination. Agent Kane specifically testified that during the pre-polygraph interview Rondeau became upset, cried, and expressed a desire to apologize to C.A. and G.W.B. for what he did. Agent Kane also explained that she told Rondeau that the polygraph examination would explore, in detail, the “sexual contact” he had with C.A. R. Doc. 101-1, at 118. Agent Kane then testified that Rondeau said, “I don’t think it’s a good idea for me to continue on with a polygraph examination,” and, as a result, the actual polygraph test was never administered. *Id.* at 120 (citation modified). Rondeau’s written statement (Exhibit 14) stated the following:

²C.A. incorrectly stated her age to the jury. “She [was] 6 when [the events] happened.” *Id.* at 145.

I, Anfernee Rondeaux, make the following statements voluntarily regarding the sexual assault of [C.A.]:

I would like to apologize to [G.W.B.] for what I did to her daughter [C.A.].

I am sorry for everything I did. I am sorry for doing this to her family. It is not who I am or who I wanted to be. I care for [G.W.B.'s] family.

I am sorry for [C.A.], especially for her having to go through this. I am sorry for hurting [C.A.]. I wish I could say this to them in person. I didn't mean to do any of this.

I want to tell [C.A.] that I was very intoxicated and didn't mean to hurt her.

If she could ever forgive me, I want forgiveness from [G.W.B.]. I also want [C.A.] to forgive me for what I have done to her.

I want to tell [C.A.] that night that what she said was true, and it hurts me a lot.

I haven't been able to talk to anyone about that night and it's been killing me that I did such a thing.

I feel bad [C.A.] will grow up and her mindset thinking about this happening to her. I hope she doesn't go through the same thing other girls I know have gone through, where they want to hurt themselves because they are bothered by what happened.

If I really wanted to be with [G.W.B.], I shouldn't have done that to [C.A.]. A father figure is not supposed to do that. They are supposed to take care of their kids.

I want to change a lot of stuff about myself. I don't want to do that again. I feel so bad and think about my own kids having that happen. I should be there for them teaching them things.

I wish the best for [G.W.B.], [C.A.], and their family, and I will keep them in my prayers at night.

Special Agent Brenda Kane has been professional and fair to me. My statement is voluntary. I have not been threatened in any way during this interview. No promises of any kind have been made to me in exchange for my information. I have re-read this statement and it is accurate and correct to the best of my knowledge.

R. Doc. 83, at 13. Rondeau initialed each paragraph and signed the statement. *Id.* at 14.

Following Agent Kane's testimony, Rondeau moved for a mistrial or, alternatively, a curative instruction based on Agent Kane's mention of Rondeau's desire to forego a polygraph examination. The district court recounted prior discussions and developments pertaining to references to Rondeau's interview. The court noted that it had given the defense permission to ask the government's witness about whether the pre-polygraph interview was recorded. It also noted that the government had asked questions about the purpose of the pre-polygraph interview. The court then weighed the efficacy of a curative instruction to remedy any mischief pertaining to the mention of polygraph. The court also considered that Rondeau's counsel had not objected to the agents' referencing polygraphs and cross-examined the agents regarding the admissibility of polygraphs. The court noted that the jury had heard C.W.B.'s testimony and had seen Rondeau's written statement. After a discussion with counsel, the court concluded that a curative instruction approved by Rondeau's counsel would be sufficient to address any potential prejudice. The court denied the mistrial motion.

Rondeau then testified at trial. During his testimony, his counsel addressed his interview with Agents Waters and Kane and the emotional trauma of losing his mother. Rondeau's counsel displayed Exhibit 14 for the jury. Counsel questioned Rondeau about the pre-polygraph interview instructions read to him by Agent Kane. Counsel asked Rondeau, "So when you heard the instructions, how did you react or feel about that?" R. Doc. 101-2, at 31. Rondeau replied, "Um, like to do the polygraph?" *Id.* at 32. He continued, "Um, I was okay with it, you know, [be]cause, you know, I wanted to make sure that I wasn't lying, you know, like, I know what I

do and don't do, you know." *Id.* Counsel then asked multiple questions about the polygraph to which Rondeau gave responses characterizing his written statement as coerced and inaccurate. He did, however, acknowledge Agent Kane's testimony that she typed the statement according to what he told her. When asked by his counsel, "Did you commit that crime?," Rondeau replied, "I don't believe I would have." *Id.* at 37.

In its closing argument, the government recounted its submitted evidence and argued for conviction based on that evidence, including Rondeau's signed statement. The government never mentioned Rondeau not taking the polygraph. In its closing, the defense critiqued C.W.B.'s testimony, pointed to the lack of injury to C.A., and highlighted C.A.'s indefinite recollection. Counsel emphasized Rondeau's extreme intoxication at the time of the incident. Counsel then addressed Exhibit 14. In substance, counsel contended that the government's interrogation tactics caused Rondeau to sign a confession that he later considered inaccurate and the product of manipulation while he was emotionally compromised. In counsel's words, the idea that Rondeau confessed because of guilt was "a theory that the [g]overnment has made up to bolster the confession they took that was unrecorded." R. Doc. 101-2, at 83.

In its closing rebuttal, the government reiterated its summary of C.W.B.'s testimony and responded to the defense's suggestion that Rondeau's inebriation was the explanation for his lack of memory. In addition, the government juxtaposed C.W.B.'s credibility with Rondeau's based on inconsistencies in his statements to the agents and his in-court testimony. At that point, the government mentioned that Rondeau never took a polygraph, telling the jury that "Agent Kane testified that he didn't even go through with the polygraph examination." *Id.* at 89. The government told the jury that Rondeau "had this emotional break in which his mind shifted and he wanted to get off what was on his chest," and so the polygraph "didn't need to take place." *Id.* Rondeau did not object. The jury convicted Rondeau.

II. Discussion

On appeal, Rondeau argues that the government presented insufficient evidence to convict him or, in the alternative, that the district court plainly erred by permitting the government to refer to Rondeau not completing a scheduled polygraph examination because he had confessed. We affirm.

A. Standards of Review

“We review the sufficiency of the evidence de novo, viewing the evidence in the light most favorable to the verdict and giving the verdict the benefit of all reasonable inferences.” *United States v. Oliver*, 90 F.4th 1222, 1224 (8th Cir. 2024) (citation modified). “We must uphold the verdict if there is an interpretation of the evidence that would allow a reasonable-minded jury to find the defendant guilty beyond a reasonable doubt.” *United States v. Walker*, 917 F.3d 1004, 1011 (8th Cir. 2019) (quoting *United States v. Wainright*, 351 F.3d 816, 822 (8th Cir. 2003)). Therefore, “defendants bear a heavy burden in attempting to overturn their convictions on appeal by challenging the sufficiency of the evidence.” *United States v. Willis*, 89 F.3d 1371, 1376 (8th Cir. 1996).

Rondeau did not object to the allegedly improper testimony at trial. “Because there was no objection, we review for plain error.” *United States v. Pope*, 934 F.3d 770, 774 (8th Cir. 2019). Plain error occurs when there is an error; the error is obvious; the error affected the defendant’s substantial rights; and the error seriously affected the fairness, integrity, or public reputation of judicial proceedings. *Id.*

B. Sufficiency of the Evidence

Rondeau argues that his “conviction should be reversed because the government failed to prove that he engaged in a sexual act by intentionally touching C.A.’s genitalia not through her clothing.” Appellant’s Br. 20. In his brief, Rondeau recounts the facts, the elements of the charged crime, and the elements for attempt. He concludes that “[e]ven in a light most favorable to the government, the evidence establishes that [he] was blackout drunk and that the proof is lacking that he

possessed the specific intent to touch C.A.’s genitalia not through clothing.” *Id.* at 29. We disagree.

“To prove aggravated sexual abuse of a minor, the government needed to show that [Rondeau] (1) knowingly engaged in a sexual act with a person under the age of 12, (2) is an Indian, and (3) the offense occurred in Indian Country.” *United States v. DeCoteau*, 630 F.3d 1091, 1093 n.2 (8th Cir. 2011). Rondeau challenges only the first element—whether he engaged in a sexual act. Relevant here, Congress has defined “sexual act” to include “the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.” 18 U.S.C. § 2246(2)(D).

Having reviewed the record, we hold that the jury heard sufficient evidence to convict Rondeau of aggravated sexual abuse of a minor. Even if there were inconsistencies, “it is well established that the issue of witness credibility is virtually unreviewable on appeal because it is preeminently the job of the finder of fact.” *United States v. Ziesman*, 409 F.3d 941, 948 (8th Cir. 2005) (citation modified). First, C.W.B. testified as to what she saw, did, and heard that night. She saw Rondeau on top of C.A. moving consistently with an attempted sex act. She was alarmed enough by her observation that she pushed him off of C.A. She saw Rondeau act surprised and pull up his underwear and pants. She saw some of his exposed abdominal skin. She saw C.A. pull up her underwear and pants and walk with pain. She recalled Rondeau threatening retaliation against her if she told anyone. And Rondeau had the opportunity during cross-examination to attack her motive to testify, granting the jury the opportunity to weigh the credibility of both witnesses.

Second, the jury heard Rondeau’s testimony. His denial of the charges was hardly unequivocal. He blamed his heavy intoxication for any behavior that night and denied any memory of the events besides actions that occurred after the incident.

He acknowledged the signed statement as initialed and signed by him. His spoken defense boiled down to “I would not have done it” rather than “I did not do it.”

Third, C.A. testified that she “didn’t want to say” where Rondeau had touched her but that his actions both scared and angered her. R. Doc. 101, at 105. Although C.A. did not explicitly say that Rondeau committed unlawful acts against her, the absence of such statements was explained by expert testimony. *See United States v. Lohnes*, 554 F.3d 1166, 1169 (8th Cir. 2009) (“A young victim’s confusion and unresponsiveness should not be accorded great weight . . . in the unfamiliar and intimidating arena of the courtroom.” (citation modified)). Strand testified about the challenges of discussing sexual abuse with a young child. She testified that “[i]f the child is not willing to talk, some children will just tell you, [‘I’m not going to tell you.’] You may hear a lot of, [‘I don’t know; I don’t remember; I’m not sure.’]” R. Doc. 101, at 33 (citation modified). “Despite [C.A.’s] inability to articulate the unlawful acts that occurred, we conclude[] that the evidence was sufficient to support [Rondeau’s] conviction” *Lohnes*, 554 F.3d at 1169.

On this record, we conclude a reasonable-minded jury could conclude that Rondeau committed or attempted to commit the indicted offense.

C. Improper Testimony

Rondeau also argues “that plain error occurred when the government elicited evidence that he refused to take a polygraph examination and when it argued during its rebuttal closing argument that Rondeau refused to take the polygraph because he had confessed to the offense.” Appellant’s Br. 29–30. Thus, he argues we should reverse the district court’s denial of his motion for a mistrial. We disagree and affirm.

“The exposure of a jury to improper testimony ordinarily is cured by measures less drastic than a mistrial, such as an instruction to the jury to disregard the testimony” *United States v. Sherman*, 440 F.3d 982, 987 (8th Cir. 2006). To determine “[t]he prejudicial effect of any improper testimony,” we “examin[e] the context of the error and the strength of the evidence of the defendant’s guilt.” *United*

States v. Hollins, 432 F.3d 809, 812 (8th Cir. 2005). The district court’s use of a curative instruction in this case was appropriate and sufficed to address the potential error of permitting the government’s references in evidence and argument that Rondeau had declined to continue with a scheduled polygraph examination.

As mentioned above, once the trial began, the parties discussed the polygraph interview in line with their pretrial conversation with the court. The government “asked questions of Agent Waters, who . . . had witnessed the signed confession at the end of the pre-polygraph interview.” R. Doc. 101-2, at 5. The government also questioned Agent Kane about the interview “and the fact that it was a pre-polygraph interview.” *Id.* During this questioning, “[t]here was no objection from the Defense.” *Id.* Neither was there any “request to approach [the bench] or indication that” the questioning violated a ruling. *Id.*

Agent Kane did testify that during the pre-polygraph interview, when confronted with the gravity of his alleged actions, Rondeau became upset. She said that Rondeau told her, “I don’t think it’s a good idea for me to continue on with a polygraph examination.” R. Doc. 101-1, at 120 (citation modified). Assuming this statement was improper, the record does not require reversal of the district court’s denial of a mistrial. Rondeau’s counsel did not object to Agent Kane’s testimony. And here, the district court’s permitting the unobjected-to testimony was not plain error. Agent Kane’s comments regarding the polygraph were not so influential as to deprive Rondeau of a fair trial. *See United States v. Crumley*, 528 F.3d 1053, 1064 (8th Cir. 2008) (holding that under plain error review we reverse “only if . . . the district court’s failure to take action seriously affected both the defendant’s substantial trial rights and the fairness, integrity or public reputation of judicial proceedings” (citation modified)). For this reason, we do not have to decide whether admitting her testimony was erroneous.

Rondeau’s own authority highlights this. He cites to *United States v. Miller*, where we reversed a conviction due to prosecutorial misconduct. 621 F.3d 723, 729–33 (8th Cir. 2010). But in *Miller* “only one witness” testified, and “[t]he case turned

substantially on the testimony of [that witness], making the improper comments potentially prejudicial.” *Id.* at 732. In this case, there was a substantial testimonial record, including Rondeau’s own testimony. Furthermore, the district court gave the jury a curative instruction, the typical remedy for improper comments. *See Sherman*, 440 F.3d at 987. While nearly no curative instruction is perfect, if followed, and we presume it was, it would have ensured that the jury determined Rondeau’s guilt based on testimony and evidence establishing the elements of the offense.

Both parties engaged at length with the pre-polygraph interview and admissibility of evidence surrounding it. “On the first day of trial, defense counsel asked to withdraw the motion in limine so that she could ask limited questions regarding whether Rondeau’s pre-polygraph statements were recorded and if the examiner had discretion not to record.” Appellant’s Br. 31. The district court “allow[ed] [Rondeau] to ask questions about what was recorded, and if it was indicated it was not recorded, [to] ask why not, and then if that opened the door to a discussion of the polygraph, that was fine.” R. Doc. 101-2, at 4. The district court also instructed the parties “to not spend a lot of time talking about [the pre-polygraph interview,] because [it] didn’t think they needed to[,], as there wasn’t a polygraph that was actually done.” *Id.* at 4–5. Even after the trial began, confusion persisted not about whether the pre-polygraph interview would come in but to what degree. Given the admission of Exhibit 14 and Rondeau’s testimony and argument, we conclude that Agent Kane’s passing reference to Rondeau not continuing with the scheduled polygraph examination was not prejudicial.

With respect to the government’s mention of Agent Kane’s testimony during its rebuttal closing, “[t]he relevant question ultimately is whether the prosecutor’s comments, if improper, so infected the trial with unfairness as to make the resulting conviction a denial of due process.” *United States v. Mullins*, 446 F.3d 750, 757 (8th Cir. 2006) (citation modified); *see Crumley*, 528 F.3d at 1064 (“To obtain a reversal for prosecutorial misconduct, the defendant must show that (1) the prosecutor’s remarks were improper, and (2) such remarks prejudiced the defendant’s rights in obtaining a fair trial.” (citation modified)). We conclude that the district court did

not plainly err by permitting counsel's remark, because even if we assume it was improper, it did not prejudice Rondeau.

During Rondeau's closing argument, his counsel argued that the government used the pre-polygraph interview as a tactic to get Rondeau to confess without the benefit of a recording. Counsel told the jury that the government went to Rondeau

now with a different type of technique, different kind of interview, and that one is not recorded. . . And suddenly [Rondeau] is not going to do the interview that he was in there for, [the polygraph,] he's going to do something else. He's going to write a sorry letter. And make no mistake, ladies and gentlemen, I don't care what Agent Kane calls it, it's a confession that she's trying to elicit. . . . That is a tactic

R. Doc. 101-2, at 80.

In its rebuttal closing, the government responded to this argument by telling the jury that

Agent Kane testified that he didn't even go through with the polygraph examination. Why? Because it didn't need to take place. [Rondeau] had this emotional break in which his mind shifted and he wanted to get off what was on his chest, what had been bothering him for five months, and that's what he did to that little girl.

Id. at 89. Here, too, Rondeau did not object.

"Prosecutors . . . are entitled to argue reasonable inferences to be drawn from the facts in evidence during closing arguments." *United States v. Karam*, 37 F.3d 1280, 1289 (8th Cir. 1994). And "[w]here the prosecutor, his witnesses, or the work of government agents is attacked, the [government] is entitled to make a fair response and rebuttal." *United States v. Lee*, 743 F.2d 1240, 1253 (8th Cir. 1984). In those circumstances, "[r]eversal is appropriate only if [we] determine[] that the jury verdict could reasonably have been affected by the argument." *Id.* at 1254; *see Isaacs*

v. United States, 301 F.2d 706, 737 (8th Cir. 1962) (“[W]e are required to determine whether in light of all the facts and circumstances, with particular emphasis on all of the arguments, the utterances complained of so influenced the jury as to bring about an unjust conviction.”).

On this record, viewing it in its totality, we conclude that the jury’s verdict did not result from unfair prejudice occasioned by counsel’s mention of Agent Kane’s single reference to the canceled polygraph examination. The government’s rebuttal did imply to the jury that Rondeau’s guilt was already established based on the evidence, but this is not improper.

III. Conclusion

For all these reasons, we affirm.

STRAS, Circuit Judge, concurring.

I agree with the court that any mention of the abandoned polygraph in this case, whether by Agent Kane or the prosecutor, did not prejudice Rondeau. I write separately because I believe the challenged statements were likely admissible to explain the circumstances surrounding his confession, including rebutting the claim of coercion.

Our rule of exclusion seems to be based on the idea that using this type of evidence to independently prove guilt or destroy a defendant’s credibility is unfair. *See, e.g., United States v. Street*, 548 F.3d 618, 628 (8th Cir. 2008); *United States v. St. Clair*, 855 F.2d 518, 523 (8th Cir. 1988). In an appropriate case, we should consider whether the rule is actually as categorical as the parties make it out to be. And if it is, whether we ought to limit it to the circumstances that led to its adoption.³

³*See, e.g., United States v. Tenorio*, 809 F.3d 1126, 1130–31 (10th Cir. 2015) (“The circuits have uniformly held . . . that when the *defendant opens the door* to polygraph evidence, such as attacking the nature of a criminal investigation or asserting that testimony was coerced, polygraph evidence is admissible rebuttal

See Fed. R. Evid. 403 (authorizing the district court to “exclude relevant evidence if its probative value is *substantially outweighed* by a danger of . . . *unfair* prejudice” (emphases added)).

evidence” (emphasis added)); *United States v. Blake*, 571 F.3d 331, 346 (4th Cir. 2009) (“Polygraph results are generally inadmissible. However, testimony concerning a polygraph examination is admissible where it is not offered to prove the truth of the polygraph result, but instead is offered for a limited purpose such as *rebutting a defendant’s assertion* that his confession was coerced.” (emphasis added) (citations omitted)); *United States v. Allard*, 464 F.3d 529, 533 (5th Cir. 2006) (holding that testimony about a polygraph was admissible to explain the “facts and circumstances surrounding [the defendant’s] confession, in an attempt to *counter [the defendant’s] allegations* that her confession was coerced” (emphasis added)).