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IN THE
COURT OF APPEALS OF INDIANA

Daniel Edward Ward,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

February 6, 2023

Court of Appeals Case No.
22A-CR-985

Appeal from the Madison Circuit
Court

The Honorable Andrew Hopper,
Judge

Trial Court Cause No.
48C03-2008-FA-1768

Opinion by Judge Riley

**Judge Bailey concurs and Judge Vaidik concurs in result with separate
opinion**

STATEMENT OF THE CASE

[1] Appellant-Defendant, Daniel Ward (Ward), appeals his convictions for child molesting, a Class A felony, Ind. Code § 35-42-4-3(a)(1); attempted child molesting, a Class A felony, I.C. §§ 35-42-4-3(a)(1); 35-41-5-1; and child solicitation, a Class D felony, I.C. § 35-42-4-6(b)(1).

[2] We affirm.

ISSUES

[3] Ward presents this court with two issues, which we restate as:

- (1) Whether the trial court committed reversible error when it admitted evidence of the victim's post-disclosure behavior and certain skilled witness testimony; and
- (2) Whether the deputy prosecutor committed misconduct that deprived Ward of a fair trial.

FACTS AND PROCEDURAL HISTORY

[4] When J.S. was between seven and eight years old, she, J.S.'s mother Shelly Housh (Shelly), and J.S.'s brother lived with Ward in a small home located in the 2300 block of Chase Street in Anderson, Indiana. Ward was between the ages of forty-three and forty-five at the time. All four inhabitants of the home slept on a two-level bunk bed. On one occasion while J.S. was in the top bunk bed and neither Shelly nor J.S.'s brother was present, Ward touched J.S.'s breasts, thighs, and vagina with his hand while his penis was visible to J.S. outside the pajama bottoms Ward was wearing. On a second occasion while J.S. was living with Ward and no

one else was home, he grabbed J.S.'s breasts, thighs, and vagina with his hands as she passed by him after exiting the shower while wearing nothing but a towel.

Ward touched J.S. until J.S.'s brother arrived home. On a third occasion when no one else was at home and J.S. was on the top bunk of the bunk bed, Ward placed his penis in J.S.'s mouth until he ejaculated. J.S. did not immediately report the offenses, and J.S., Shelly, and J.S.'s brother continued to live in the home with Ward for another three years after the last offense occurred.

[5] On May 31, 2020, when J.S. was seventeen years old, in the midst of an argument with her stepfather, Michael Housh (Michael), J.S. disclosed that Ward had molested her. Two days later, Shelly and Michael took J.S. to the Anderson Police Department to report the offenses. On June 10, 2020, J.S. was forensically interviewed at Kids Talk in Anderson and reported that Ward had molested her. After disclosing the molestation, J.S. experienced depression, insomnia, and nightmares. J.S. would wake up screaming and crying. J.S. cut herself, and she attempted suicide.

[6] On August 4, 2020, the State filed an Information, charging Ward with Class A felony child molesting, Class A felony attempted child molesting, and Class D felony child solicitation. On October 22, 2021, Ward filed a motion in limine seeking, in relevant part, to prohibit testimony from any witness stating that any statement, action, or behavior by J.S. could have been the result of sexual abuse. At a March 11, 2022, pretrial conference, the trial court heard argument on Ward's motion in limine. The deputy prosecutor represented that he intended to call sexual assault nurse examiner Holly Renz (Renz) to testify as a skilled witness

about “child molestation and behaviors commonly exhibited by victims of child molestation” and about “red flags that are common indicators of abuse[,]” but that Renz, who was not involved in examining J.S., would not testify regarding any of J.S.’s actions or behaviors. (Transcript Vol. I, pp. 86-87). The deputy prosecutor voiced his opinion that it would not be proper for Renz to comment on J.S. specifically, but that he intended during closing argument to link up evidence of J.S.’s behavior, as presented by J.S., Shelly, and Michael, to Renz’s testimony. The trial court granted Ward’s motion in limine. Upon the deputy prosecutor’s request for clarification, Ward’s counsel stated to the deputy prosecutor, “I agree with everything you just said” and that “I don’t think what I wrote here excludes what you’re trying to say.” (Tr. Vol. I, p. 88).

[7] On March 14, 2022, the trial court convened Ward’s three-day jury trial. As part of Ward’s opening argument, his counsel told the jury that the State’s evidence against Ward was sparse and that “you’re going to hear from a [nineteen-year-old] woman [who’s] going to give you [a thirteen-year-old] story. It’s your job to determine whether that’s a creditable [sic] one.” (Tr. Vol. II, p. 61). J.S. was the State’s first witness. J.S. testified without objection that, after disclosing Ward’s molestation, she experienced depression, insomnia, crying, and flashbacks and that she had cut herself with a razorblade. On cross-examination, J.S. was confronted with inconsistencies between her prior statements and her trial testimony on details of the offenses, such as which bunk bed she had been in when Ward molested her and whether her mother was present but sleeping during the oral sex offense. J.S. was asked twice whether she remembered and understood that she was testifying

under oath, and, at the end of cross-examination, whether there was “anything else that you’ve said today that wasn’t accurate?” (Tr. Vol. II, p. 135). Shelly and Michael both briefly testified regarding the changes in J.S.’s behavior after she disclosed the molestation. Shelly and Michael confirmed on cross-examination that J.S. had not exhibited any of the depression, nightmares, and self-harm behaviors until she was seventeen years old and had disclosed the molestation.

[8] The State called Renz as a witness at the end of the second day of trial. After Renz informed the jury of her education, training, and experience, she testified that she had not conducted a physical examination of J.S. and that she would be testifying about the nature of child molestation in general and behaviors commonly exhibited by alleged victims of child molestation. Renz testified that up to ninety-five percent of child molestation victims do not sustain any visible injuries, and she explained why it was common for molestation victims to delay disclosing abuse. When the State attempted to have Renz testify regarding what “red flags” or indicators for sexual abuse she looked for when conducting a sexual assault examination, Ward objected multiple times that the State had failed to establish an adequate foundation that Renz was personally qualified to testify regarding emotional or psychological effects of molestation on victims. (Tr. Vol. II, p. 222). Ward never objected that the proposed testimony was per se inadmissible because it was scientifically unreliable, that it constituted impermissible vouching, or that its probative weight was outweighed by its prejudicial effect. After a sidebar resulted in one of Ward’s objections being sustained, the deputy prosecutor directed Renz to be as specific as she could about where she learned about the red

flags for abuse “so I don’t have to keep walking to the bench to answer [Ward’s counsel’s] objections . . .” (Tr. Vol. II, p. 223). The trial court called the deputy prosecutor to the bench and admonished him to refrain from commenting on Ward’s objections in front of the jury. Ward did not request an admonishment or a mistrial. After Renz offered additional foundational testimony, she testified that, as a clinician, she was trained to look for indicators of potential sexual assault, such as a patient experiencing nightmares, withdrawn behavior, cutting, self-harm, and suicide attempts, among other indicators.

[9] During the State’s closing argument, the deputy prosecutor summarized Renz’s testimony about the red flags for sexual abuse. The deputy prosecutor commented that Renz did not testify about J.S.’s particular case but that

[t]hat’s what I’m doing. I’m connecting the dots between the testimony about what Michael, J.S. and Shelly testified about. The post-disclosure effects on J.S. To what [] Renz says. These are the common things that happen in these kinds of cases. This is like textbook child molest case stuff.

(Tr. Vol. III, p. 38). During the State’s rebuttal argument, the deputy prosecutor stated that Renz had not interviewed J.S. because Renz “was just asked to testify as an expert.” (Tr. Vol. III, p. 64). Ward did not object to this reference to Renz as an expert or request an admonishment or mistrial. The jury found Ward guilty as charged.

[10] On March 30, 2022, the trial court conducted Ward’s sentencing hearing. Due to double jeopardy concerns, the trial court sentenced Ward only for his Class A

felony child molesting conviction which was based on the oral sex offense. After considering Ward’s criminal record of four prior felonies, which included convictions for child exploitation and sexual battery, Ward’s violation of his position of trust with J.S., and the fact that Ward was on parole at the time of the offenses, the trial court sentenced Ward to forty-seven years in the Department of Correction.

[11] Ward now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

I. Evidence

A. Standard of Review

[12] Ward contends that the trial court committed reversible error when it admitted the testimony of J.S., Shelly, and Michael regarding J.S.’s post-disclosure behavior and when it admitted Renz’s testimony, which fell into two basic categories: general evidence of characteristics displayed by children who were abused and evidence pertaining to characteristics and behaviors that Renz looked for as indicators of abuse. As a general matter, we review a trial court’s evidentiary rulings for an abuse of its discretion, which occurs when the trial court’s decision is “clearly against the logic and effect of the facts and circumstances before it.” *Alvarez-Madrigal v. State*, 71 N.E.3d 887, 892 (Ind. Ct. App. 2017), *trans. denied*. Where a defendant has failed to preserve a claimed error in the admission of evidence through a contemporaneous objection, to obtain reversal of his conviction, he must establish that fundamental error occurred. *Id.* at 894 n.4. The fundamental error

doctrine is extremely narrow and allows a defendant to avoid waiver of an issue only where he can demonstrate error that makes ““a fair trial impossible or [that] constitute[s] clearly blatant violations of basic and elementary principles of due process, presenting an undeniable and substantial potential for harm.”” *Id.* (quoting *Nichols v. State*, 55 N.E.3d 854, 862 (Ind. Ct. App. 2016), *trans. denied*).

B. Analysis

[13] In *Steward v. State*, 652 N.E.2d 490, 491 (Ind. 1995), our supreme court considered the admissibility of syndrome, pattern, or profile evidence of child sex abuse to prove that child molestation occurred. The specific evidence at issue in *Steward* was proffered by the State through a clinical psychologist who had treated the victim and who testified that teenagers who have experienced sexual abuse display common traits or behavioral symptoms, including poor self-esteem, school and family problems, and depression and that the victim had exhibited such symptoms. *Id.* at 492. The State also had testimony admitted by a residential group home employee who had interacted with the victim and who testified that children who have known incidents of sexual abuse exhibit certain traits, characteristics, and behavior patterns that he looked for in characterizing sexual abuse, including promiscuity, timidity, and low self-esteem. *Id.* After observing that the admissibility of such evidence was controversial and had received substantial criticism, that children have a wide variety of responses to sexual abuse, and that many of the characteristics identified as syndromes or victim behavior groupings may be the result of causes unrelated to abuse, the *Steward* court concluded that the “diagnostic use of syndrome evidence in courtrooms poses serious accuracy

problems.” *Id.* at 492-93. The court clarified that “[o]ur discussion today encompasses not only [child sexual abuse accommodation syndrome] but also similar descriptions of ‘typical’ behavior profiles or patterns, whether or not termed ‘syndromes’[.]” *Id.* at 493. The *Steward* court held that such evidence was generally inadmissible to show that sexual abuse actually occurred due to it being insufficiently scientifically reliable and due to the danger of undue prejudice to the defendant and confusion of the jury. *Id.* at 499. The court clarified that this is true, regardless of whether the expert at issue offers a definitive opinion that abuse occurred or whether the expert’s testimony, paired with other evidence of a child’s behaviors, is used to merely imply that the alleged abuse occurred. *Id.*

[14] However, the *Steward* court further concluded that, while such evidence was inadmissible to prove that molestation actually occurred, it is not inadmissible for all purposes. *Id.* at 496. Rather, syndrome and other behavioral or characteristics evidence is generally admissible to rehabilitate a child complainant to rebut a claim by the defense that the child’s behavior, such as delayed reporting, is inconsistent with abuse. *Id.* at 496. Once a child’s credibility is called into question by the defense through discussion or presentation of evidence of unexpected behavior by the child which the defense contends is inconsistent with abuse, “a trial court may consider permitting expert testimony, if based upon reliable scientific principles, regarding the prevalence of the specific unexpected behavior within the general class of reported child abuse victims.” *Id.* at 499.

[15] Citing *Steward*, Ward argues that the trial court erred in admitting evidence of J.S.’s post-disclosure behaviors and Renz’s expert testimony because that evidence

did not meet the strictures of Indiana Evidence Rules 702(a) and 403, it was not admissible for other purposes, and it constituted impermissible vouching. Ward contends that the challenged evidence “is exactly the nature of testimony that has been deemed improper and inadmissible in criminal proceedings.” (Appellant’s Br. p. 13). In addressing these arguments, we begin by observing that Ward never objected on any of these grounds at trial. Ward raised no objection to the challenged portions of testimony by J.S., Shelly, and Michael that he now contends were improper, and, as to Renz’s testimony, Ward only posed objections to the adequacy of the foundation of Renz’s personal expertise, without mention of the scientific reliability of the proffered evidence, Rule 702(a), Rule 403, or improper vouching. A defendant’s failure to object waives a claim of evidentiary error for appeal. *Sampson v. State*, 38 N.E.3d 985, 992 (Ind. 2015). In addition, a defendant may not object to the admission of evidence on one basis at trial and then raise a different basis on appeal. *Bradfield v. State*, 192 N.E.3d 933, 935 (Ind. Ct. App. 2022). Thus, Ward waived these claims. *See Lyons v. State*, 976 N.E.2d 137, 141 (Ind. Ct. App. 2012) (holding that Lyons had waived his claim of error that a child psychologist’s testimony that various characteristics and behaviors are common in child abuse victims was scientifically unreliable, where Lyons failed to object at relevant times and offered different grounds for inadmissibility on appeal than he had at trial). We also observe that, at the March 11, 2022, pretrial conference, after arguing Ward’s motion in limine and being informed that Renz would testify to “red flags that are common indicators of abuse[,]” Ward’s counsel agreed with the deputy prosecutor that the proposed testimony was proper. (Tr. Vol. I, p. 87). Thus, any error in the admission of that line of testimony was

invited error. *See Batchelor v. State*, 119 N.E.3d 550, 558 (Ind. 2019) (holding that invited error is established where there is evidence that the error resulted from the appellant's affirmative actions as part of a deliberate and well-informed trial strategy and not simply a passive lack of objection or oversight).

[16] Ward also argues that Renz's testimony was not relevant or admissible pursuant to *Steward* to rehabilitate J.S. because he never attacked J.S.'s credibility. However, even if Ward had preserved this claim through a contemporaneous objection, it is not meritorious. In *Pierce v. State*, 135 N.E.3d 993, 1004-05 (Ind. Ct. App. 2019), *trans. denied*, we held that Pierce's trial counsel was not ineffective for failing to object to child sexual abuse syndrome testimony offered after trial counsel had opened the door to the testimony under *Steward* by questioning the victim's credibility during opening argument and throughout the state's case-in-chief through cross-examination. Here, during opening argument, Ward highlighted the fact that J.S. had delayed reporting the offenses and that it was up to the jury to decide whether her story was credible. During cross-examination, Ward questioned J.S. about the timing of her disclosure and elicited testimony meant to imply that J.S. had disclosed to Michael in order to put a stop to an argument she was having with him. Thus, Ward's opening argument and cross-examination put J.S.'s credibility at issue for purposes of admitting Renz's testimony regarding how and why children delay disclosure as rehabilitative evidence. *See Steward*, 652 N.E.2d at 496.

[17] Neither would we have credited Ward's argument that the challenged testimony constituted impermissible vouching had he properly preserved the issue. Indiana Evidence Rule 704(b) provides that

[w]itnesses may not testify to opinions concerning intent, guilt, or innocence in a criminal case; the truth or falsity of allegations; whether a witness has testified truthfully; or legal conclusions.

It is improper for the State to solicit an opinion from an expert regarding whether a witness is telling the truth. *State v. Velasquez*, 944 N.E.2d 34, 43 (Ind. Ct. App. 2011), *trans. denied*. However, Rule 704(b) is not violated by testimony that does not offer an opinion about whether any particular statement by a witness is true or not. *Malinski v. State*, 794 N.E.2d 1071, 1083 (Ind. 2003). Here, neither J.S., Shelly, Michael, nor Renz offered any testimony or opinion regarding the truthfulness of J.S.'s testimony. Renz, who did not examine J.S. and had not reviewed any documents pertaining to J.S. prior to testifying, did not mention J.S. at all. Therefore, even if Ward had preserved this claim, it is also without merit.

[18] Lastly, Ward offers no argument that any of his unpreserved claims of error amounted to fundamental error, and, thus he has waived that claim for appeal as well. Ind. Appellate Rule 46(A)(8). Much of Renz's testimony concerned how victims of child molestation behave in general, which this court has held is admissible evidence. *Baumholser v. State*, 62 N.E.3d 411, 416 (Ind. Ct. App. 2016), *trans. denied*; *Hobbs v. State*, 160 N.E.3d 543, 555 (Ind. Ct. App. 2020), *trans. denied*. However, even if Renz's testimony regarding the red flags for child sexual abuse,

coupled with evidence of J.S.'s post-disclosure behaviors, was improperly admitted, we cannot conclude that it deprived Ward of a fair trial. J.S. was nineteen years old by the time of Ward's trial, and the jury was able to assess her credibility as an adult witness. J.S. testified regarding the offenses and was thoroughly cross-examined. Although J.S.'s testimony about some of the details of the offenses changed, such as whether the offenses took place on the top or bottom bunk bed, she testified consistently about the acts of molestation themselves. *See Sampson*, 38 N.E.3d at 992 (finding no fundamental error in the improper admission of vouching testimony in a child molestation case in part where the victim was thoroughly cross-examined and testified consistently). In addition, the probative value of any inference linking Renz's red flags for abuse to J.S.'s behavior was greatly diminished in this case due to the fact that J.S. only displayed the red-flag behaviors after she disclosed, a decade after the molestation occurred. Accordingly, we conclude that Ward could not have demonstrated that fundamental error occurred here.

II. *Prosecutorial Misconduct*

A. *Standard of Review*

[19] Ward briefly contends that the deputy prosecutor committed misconduct by seeking the admission of the aforementioned challenged evidence, commenting in the presence of the jury on Ward's counsel's objections, and referring to Renz as an "expert" during closing argument. In order to preserve a claim of prosecutorial misconduct, a defendant must, at the time the alleged misconduct occurs, request an admonishment, and if he is not satisfied by the admonishment, move for

a mistrial. *Ryan v. State*, 9 N.E.3d 663, 667 (Ind. 2014). As we have previously noted, Ward did not properly object to the challenged evidence, and he did not object after either of the two other alleged instances of misconduct. Ward did not request an admonishment or move for a mistrial at any time during his trial. Therefore, he has procedurally defaulted his claims. *Id.*

[20] Our standard of review of waived prosecutorial misconduct claims is more rigorous, in that a defendant “must establish not only the grounds for prosecutorial misconduct but must also establish that the prosecutorial misconduct constituted fundamental error[,]” meaning error so prejudicial to the defendant’s rights so as to make a fair trial impossible. *Id.* at 667-68. In evaluating fundamental error in this context, we examine all that happened at trial, including the evidence admitted, the closing arguments of the parties, and the instructions to the jury, to determine whether the alleged misconduct had an undeniable and substantial effect on the jury’s decision such that a fair trial was not possible. *Id.* at 668.

B. *Analysis*

[21] Ward’s argument concerning the admission of evidence is that the deputy prosecutor engaged in misconduct by introducing evidence of “certain behaviors J.S. demonstrated throughout the course of the proceedings despite Ward’s motion in limine.” (Appellant’s Br. pp. 14-15). This argument is based on a factual inaccuracy. Ward’s successful motion in limine prohibited the State from introducing evidence that any of J.S.’s statements, actions, or behaviors could have been the result of sexual abuse; it did not bar all evidence of J.S.’s behaviors. No witness offered testimony that J.S.’s negative post-disclosure behaviors were the

result of being molested. In addition, inasmuch as Ward argues that the admission of Renz's testimony regarding the red flags of child sexual abuse, coupled with the evidence admitted of J.S.'s post-disclosure behavior, amounted to misconduct by the deputy prosecutor, that argument fails to take into account Ward's pretrial concession that Renz's red- flag testimony was proper. We have also already concluded that the admission of that evidence, even if improper, did not overly impact the jury so as to render a fair trial impossible.

[22] Ward's entire argument concerning the deputy prosecutor's remark about his counsel's objections is as follows: "[B]y commenting on Ward's objections that were raised in the presence of the jury the State prejudiced the jury." (Appellant's Br. p. 15). Ward presumably refers to the deputy prosecutor's direction to Renz that she should be specific in her testimony so that he would not be required to address further objections by Ward. However, Ward does not develop any argument supported by legal authority that the deputy prosecutor's remark constituted misconduct, let alone that it deprived him of a fair trial, and, therefore, we are not persuaded.

[23] Ward's contention that the deputy prosecutor's reference to Renz as an "expert" during closing argument deprived him of a fair trial is of a similarly cursory nature. In support of his argument that the remark constituted misconduct, Ward draws our attention to *Farmer v. State*, 908 N.E.2d 1192 (Ind. Ct. App. 2009). However, in *Farmer*, the court addressed the propriety of a trial court, not the State, referring to a witness as an expert in front of the jury. *Id.* at 1198-99. The *Farmer* court cited *Campbell v. Shelton*, 727 N.E.2d 495, 500 (Ind. Ct. App. 2000), *trans. denied*, a case

in which this court observed that neither the trial court nor counsel should refer to a witness as an expert because it infringes upon the jury's role as the sole arbiter of what weight is to be given to a witness's testimony. Even if this authority established that the deputy prosecutor committed misconduct when he referred to Renz as an expert, this was a one-time remark made in the midst of explaining that Renz was not testifying regarding the specifics of J.S.'s case. In addition, the members of the jury were instructed that they were "the exclusive judges of the evidence, which may be either witness testimony or exhibits" and that the "[s]tatements made by the attorneys are not evidence." (Tr. Vol. III, pp. 73, 75). A jury is presumed to have followed the trial court's instructions. *Weisheit v. State*, 109 N.E.3d 978, 989 (Ind. 2018). Ward does not explain how those instructions failed to cure any prejudice flowing to him because of the deputy prosecutor's one-time remark. Under the facts and circumstances of this case, we conclude that this one-time reference to Renz as an expert did not deprive Ward of a fair trial.

CONCLUSION

[24]Based on the foregoing, we conclude that, insomuch as either the admission of the challenged evidence or the prosecutor's conduct was improper, neither deprived Ward of a fair trial so as to warrant reversal.

[25]Affirmed.

[26]Bailey, J. concurs

[27]Vaidik, J. concurs in part and concurs in result with separate opinion

Vaidik, Judge, concurring in part and concurring in result.

[28]I concur in full with the majority’s analysis of Ward’s prosecutorial-misconduct claim. However, I write separately to address Ward’s claim that the trial court erred in admitting testimony from Renz. The majority concludes Renz’s testimony was admissible because Ward placed J.S.’s credibility at issue and thus the testimony could be used to rehabilitate her. I disagree.

[29]As the majority notes, in *Steward v. State*, 652 N.E.2d 490 (Ind. 1995), our Supreme Court addressed the admissibility of testimony about the behaviors of child sexual-abuse victims. The Court emphasized the danger of using such testimony, given that “children’s responses to sexual abuse vary widely” and that many of the identified behaviors “may result from causes unrelated to abuse.” *Id.* at 493. As such, the Court found this evidence could not be admitted to prove that the abuse occurred or to show that “because the behavioral characteristics of the child comport with [behaviors commonly exhibited by abuse victims], the child is likely to be telling the truth.” *Id.* The Court did note that such evidence may be admissible “for purposes of helping the jury to understand that a complainant’s reactions are not atypical of a young sexual assault victim.” *Id.* at 496. The Court stated,

[W]e recognize that, once a child’s credibility is called into question, proper expert testimony may be appropriate Because research generally accepted as scientifically reliable recognizes that child victims of sexual abuse may exhibit unexpected behavior patterns seemingly inconsistent with the claim of abuse, such evidence may be permissible under Indiana

Evidence Rule 702(a)'s authorization of "specialized knowledge [which] will assist the trier of fact to understand the evidence." Therefore, **if the defense discusses or presents evidence of such unexpected behavior by the child**, or if during trial testimony the child recants a prior allegation of abuse, a trial court may consider permitting expert testimony, if based upon reliable scientific principles, **regarding the prevalence of the specific unexpected behavior** within the general class of reported child abuse victims.

Id. at 499 (emphases added).

[30] The majority states that Renz's testimony is admissible under *Steward* because the defense put J.S.'s credibility at issue by questioning her on the circumstances and timing of her disclosure, thus allowing "Renz's testimony regarding how and why children delay disclosure as rehabilitative evidence." Slip op. at ¶ 16. Had Renz's testimony been used solely to explain how and why children delay disclosure of sexual abuse, I would agree. But that is not all Renz's testimony was used for. J.S. and her parents testified at length about her behavioral problems, including nightmares and self-mutilation. Renz then testified that these same behaviors are "red flags" commonly exhibited by child-abuse victims. At closing, the State argued:

Holly Renz also testified about the behavioral red flags that as a clinician, a SANE nurse, she is trained . . . to identify as indicators of sexual abuse. Nightmares, cutting, suicidal ideation This is corroborative. Holly Renz doesn't know anything about this case. Holly Renz was not given a file. She read no police reports, no medical records, nothing. She just testified about, like, this is what literature says. This is what my training and experience says about things, about delayed disclosure and

about the red flags. You know. She cannot comment about the facts of this case. That's argument. That's what I'm doing. I'm connecting the dots between the testimony about what Michael, J.S. and Shelly testified about. The post-disclosure effects on J.S. To what Holly Renz says. These are the common things that happen in these kinds of cases. This is like textbook child molest case stuff.

Tr. Vol. III pp. 37-38. Thus, it is clear that Renz's testimony was not being used to rehabilitate a specific attack on J.S.'s behavior—such as the delayed disclosure—but to bolster her testimony by suggesting that her nightmares and self-mutilation were typical of child molesting victims. And this is exactly what *Steward* sought to prohibit.

[31] Here, the general defense theory was that J.S. was not credible. Merely alleging the victim is not credible does not warrant admission of such testimony under *Steward*, which requires a challenge to specific unexpected behavior exhibited by the victim. If a general attack on credibility was enough, such testimony would be almost universally admissible, as the credibility of victims—especially in child-abuse cases that often have little physical evidence—is commonly at issue. Here, while J.S.'s general credibility may have been challenged by the defense, specific behaviors other than her delayed disclosure were not. Had the defense claimed that J.S. does not exhibit signs of sexual abuse or suggested certain behaviors she does exhibit are inconsistent with abuse, then Renz's “red flag” evidence may have been admissible. But that is not what happened here.

[32] Notwithstanding the erroneous admission of this evidence, I agree with the majority that Ward not only waived the error by failing to object but invited the error by agreeing the State could use the evidence in this manner. Therefore, I concur in result as to this issue.