

¶ 4

FACTS

¶ 5 As 2009 began, defendant lived with his mother at a house in Harrisburg, Illinois. Defendant concedes that his mother was upset that he had recently come into possession of a handgun and had asked that he remove it from the house. The afternoon of January 15, 2009, defendant left the house with the intention of selling the pistol.

¶ 6 Defendant described going to the homes of several acquaintances that date to see who might want to purchase the handgun. After checking at the house of a relative, defendant realized he was near the apartment of Mary Haney. A month earlier, defendant had rendezvoused with Haney's sister, Joanne, at the apartment.

¶ 7 Defendant decided to visit Haney. He explained he had drunk some beers throughout the evening and was reluctant to go to his mother's house intoxicated. Defendant testified that he was concerned his car would be broken into so he carried the pistol, loaded, on his person for the visit.

¶ 8 Haney's boyfriend, William Frost, answered the door and let defendant inside. Defendant testified he had not met Frost before. Frost, Haney, and defendant drank some beer and watched television in the living room. After about a half hour, Frost went into the kitchen. Defendant, Frost, and Haney diverge on some of the details after this point.

¶ 9 Defendant testified that after Frost left the room, Haney renewed a topic that she had discussed with defendant the night he had rendezvoused with her sister. According to defendant, Haney raised the topic of doing a "group thing."

¶ 10 About five minutes later, defendant heard a loud thump followed shortly by Frost returning to the living room with a sharp object in one hand. Frost yelled, "Mother fucker, you're trying to talk to my old lady I will cut your F'g heart out." Defendant continued: "And that's what prompted me to jump up. I had my gun in my pocket and I reached my hand in my pocket. I was nervous. And I pointed it in his direction and I said, sir, you're going to

have to drop that."

¶ 11 Defendant told Frost that his talk with Haney was not serious and Frost replied, "F that." At this point, Frost was about eight feet away. Defendant thought Frost was going to come towards him, so defendant fired a shot into the wall to get Frost's attention. Defendant later clarified his description:

"Q. [Attorney for State:] This shot that you fired, did you fire it into the direction of Mr. Frost or did you fire it somewhere else?

A. No, I did not fire it in his direction. And even according to their testimony they were trying to say that I just crazy went off and wanted to hurt an unarmed man for no reason and this off the wall story that I'd put a gun up to the side of his head. Well, if this gun is to the side of his head and I fire a shot, don't you think he would have got hit. I had no intentions of shooting Mr. Frost or shooting in his direction. I just wanted to deter him from trying to hurt me, which is my right. I've got a right to defend myself. That's the bottom line."

¶ 12 Frost dropped the knife and defendant's fear admittedly turned to rage. Defendant described walking up to Frost, putting the gun to Frost's throat, and asking Frost why he brought a knife to a gunfight. Defendant walked Frost back into the kitchen and then heard Haney moving elsewhere in the house. Defendant thought Haney would be calling the police, so he backed away from Frost, and Frost ran out of the house. Defendant denied ever telling Frost that Frost was under arrest or going outside with Frost.

¶ 13 Defendant claims that he then acted out of caution. Describing his actions as an attempt to avoid any chance of being shot by the responding police, he went outside, placed the gun under a car, and waited for police to arrive. Defendant was taken into police custody, identified by Frost, and placed in a squad car. Defendant asserted that, though he was not advised of his rights, he demanded an attorney while in the squad car.

¶ 14 Frost testified that defendant arrived at the apartment he shared with Mary Haney in the late evening of January 15 and that the three of them watched television. Frost watched while lying on a pallet on the floor, Haney sat on a couch, and defendant sat in a rocking chair. About 30 minutes into a movie, defendant abruptly stood up and pointed a pistol at Frost's head. Defendant said, "[G]et your MF hands behind your head; you're under arrest." At first, Frost thought defendant was just joking around. Frost stated, "[S]ince I didn't listen, he turned the gun towards the wall and shot." Frost testified that defendant fired at a downward angle with the bullet hitting the wall about a foot from the floor. Frost stated, "[The shot] was about a foot beside my head."

¶ 15 At defendant's direction, Frost put his hands behind his head, stood up, and walked outside with defendant holding the gun to the back of his head. Outside, defendant ordered Frost to get on his knees. Defendant then said something about going to prison and that it would be over when the police arrived. Defendant went back into the residence and Frost ran away.

¶ 16 On cross-examination, Frost denied ever holding an ice pick or sharp object. Frost was questioned about what he meant by defendant pointing a gun "beside" him. The cross-examination concluded:

"Q. [Attorney for State:] Okay. You indicated you believed that the shot was fired was a [*sic*] least a foot away from your head; is that correct?

A. Yes, sir, it was.

Q. Okay. So it wasn't exactly pointing at your direction, was it?

A. No, sir, not at the time."

¶ 17 Mary Haney testified that she was watching television with Frost when defendant arrived at her door. Haney knew defendant as he had a "fling" with her sister. The three watched television with Haney sitting on a couch, Frost on the floor in front of her, and

defendant sitting in a nearby rocking chair. Haney looked over and saw defendant fiddling with something and then, suddenly, defendant stood up with a gun in his hands. Defendant told Frost that he was under arrest and needed to put his hands behind his head because they were going outside. Frost, apparently dazed, took a minute before getting to his knees while asking defendant why he was pointing a gun at him. Defendant then fired one shot. Haney testified that she thought Frost was going to keel over dead as the gun was close to Frost's head when the shot was fired.

¶ 18 Frost then put his hands behind his head and proceeded to walk out of the room with defendant walking behind with the gun. Haney ran upstairs, locked the door to her room, and called the police. Haney stated that she "remembered vaguely" that Frost grabbed an ice pick off the refrigerator when they left through the kitchen, but did not have it when the shot was fired. Haney stated that the bullet went through a Bible case, through the wall in the front room, and into the kitchen stove.

¶ 19 Ida Hamby lived in the apartment complex. Ida heard what she thought was something being knocked off a shelf and then some yelling outside. When she opened her door she saw Frost on the sidewalk in front of Haney's apartment on his knees with his hands on his head with another man holding a gun to the back of his head. The man with the gun said something about a woman being held hostage in the apartment. Ida called 9-1-1. The holder of the gun said he was going back into the apartment to get a jacket and told Frost not to move. Frost ran.

¶ 20 Joshua Hamby, Ida's husband, heard a loud bang in the next apartment, and then Ida called him to look outside. Joshua saw Frost on his knees with his hands behind his head and a man standing behind him with a gun pointed at his head. The man with the gun was threatening to kill Frost. The gunholder told Frost to stay on the ground while he went inside and Frost ran.

¶ 21 During cross-examination, the prosecutor asked defendant questions about the veracity of other witnesses. Defendant points to the following:

"Q. [Attorney for State:] So when Mr. Frost—and you were here when he testified that it took him a few minutes and an explanation from you about my name is Ben and we were drinking a couple of weeks ago, that's a lie?

A. That's a bold face lie.

* * *

Q. So when the Hambys and Mr. Harris testify [*sic*] that they looked out their window due to this loud yelling and saw you and Mr. Frost on his knees with your gun pointed at the back of his head, you're saying they're lying.

A. They said themselves [*sic*] that they was [*sic*] lying ***.

Q. And you say they're lying?

A. They said they was [*sic*] lying if you listened to their testimony.

* * *

Q. And you're saying that's bull, that didn't happen?

A. Yes, that a B.S. story, yes sir.

Q. They're lying?

A. That's a B.S. story, sir.

* * *

Q. Well. Let's go back to what you had to say, all right. You're saying Officer Martin is lying, he did ask you questions?

A. He did ask me questions.

Q. You're saying Officer Martin is lying because according to your testimony there's no way in the world that you would ever have said on your way to the detention center that, '[Defendant] said that the gun we found was his and he had done

nothing wrong and that Williams [*sic*] Frost was a sex offender and that's why [defendant] went after him.' You're saying that is absolutely inaccurate and a lie?

A. That's very inaccurate. Why would I saw [*sic*] he's a sex offender? Why would I want to tell him that that is my gun, you know what I'm saying? Why would I confide in him? I didn't even know him. And I'm definitely not stupid.

Q. So everybody but you that has testified in these proceedings is lying?"

¶ 22 The jury found defendant guilty of aggravated discharge of a firearm. 720 ILCS 5/24-1.2 (West 2008). The circuit court entered judgment on the verdict and sentenced defendant to a seven years' imprisonment. Defendant appeals.

¶ 23 ANALYSIS

¶ 24 The Criminal Code of 1961 provides:

"§ 24-1.2. Aggravated discharge of a firearm.

(a) A person commits aggravated discharge of a firearm when he or she knowingly or intentionally:

(1) Discharges a firearm at or into a building he or she knows or reasonably should know to be occupied and the firearm is discharged from a place or position outside that building;

(2) Discharges a firearm in the direction of another person or in the direction of a vehicle he or she knows or reasonably should know to be occupied by a person[.]" 720 ILCS 5/24-1.2(a)(1), (a)(2) (West 2008).

¶ 25 The evidence that defendant committed the offense of aggravated discharge is overwhelming. Defendant asserts that he did not aim his shot at Frost with the intent of harming him. The record would support such a finding, but that is not the issue. Under either the description offered by defendant or that given by the witnesses, the shot was fired "in the direction" of Frost. 720 ILCS 5/24-1.2(a)(2) (West 2008).

¶ 26 At trial, defendant testified that he had no intention of shooting Frost. Defendant initially testified that when Frost approached him, he took the handgun out of his pocket, nervously "pointed it in [Frost's] direction," and, thinking Frost was coming towards him, fired a shot into the wall. When later asked whether he fired in Frost's direction, defendant asserted that he had no intention of shooting Frost but was just trying to deter him.

¶ 27 Moreover, defendant points out that the testimony of the other witnesses supports the conclusion that he did not shoot to hit Frost. Defendant points out that Frost himself admitted that defendant turned the gun towards the wall before shooting and that Haney thought defendant appeared nervous and may not have wanted to actually discharge the weapon. Defendant asserts that he could have shot Frost from such a short distance or fired more rounds if he had intended to shoot him.

¶ 28 The question of whether a shot is fired in the direction of a person requires a different analysis than whether a defendant intended to injure someone. Defendant asserts that he intentionally turned his aim away from Frost and that this meant he was not discharging a firearm in his direction. Nonetheless, the plain language of the statute does not require a defendant to aim "at" another person, but "in the direction" of another. 720 ILCS 5/24-1.2 (a)(2) (West 2008). In the end, an intent to shoot a person is not an element of the offense. See *People v. Kasp*, 352 Ill. App. 3d 180, 188, 815 N.E.2d 809, 817 (2004).

¶ 29 Under defendant's own account of events, his conduct fell under the established elements of the offense. In order to prove a defendant committed the offense of aggravated discharge, the State must prove two elements—first, that defendant knowingly and intentionally discharged a firearm and, second, that the discharge was aimed in the direction of another person. *People v. Leach*, 2011 IL App (1st) 090339, ¶ 22, 952 N.E.2d 647; *People v. James*, 246 Ill. App. 3d 939, 944, 617 N.E.2d 115, 118 (1993). Thus, unlike assault or battery, the focus of the offense is the actual firing of a weapon. *James*, 246 Ill.

App. 3d at 944, 617 N.E.2d at 118.

¶ 30 By asserting that he did not shoot directly at Frost, defendant misconstrues the requisite intent. The offense does not require a defendant to shoot with the intent to hit another person as a target, but to intentionally discharge a weapon and to do so "in the direction" of another person. 720 ILCS 5/24-1.2(a)(2) (West 2008). Indeed, the threat of serious harm is not an inherent element of the offense of aggravated discharge. *People v. Ellis*, 401 Ill. App. 3d 727, 730, 929 N.E.2d 1245, 1248 (2010). Instead, the first element is that a defendant intentionally discharged the firearm. *James*, 246 Ill. App. 3d at 944, 617 N.E.2d at 118. Defendant unquestionably intended to discharge the handgun.

¶ 31 Defendant's own version of his conduct also met the second element of firing "in the direction" of another person. In order for the discharge to be aggravated, a defendant must be aware of the presence of another individual. *People v. Kasp*, 352 Ill. App. 3d 180, 188, 815 N.E.2d 809, 817 (2004). In contrast, discharging a firearm at no one in particular is reckless. *Kasp*, 352 Ill. App. 3d at 188, 815 N.E.2d at 817; see *Leach*, 2011 IL App (1st) 090339, ¶ 22, 952 N.E.2d 647 (charge need not name the individual in whose direction the shot was fired); see also *People v. Ruiz*, 342 Ill. App. 3d 750, 759, 795 N.E.2d 912, 921 (2003) (defendant need not know the identity of the other person). By his own account, defendant did not fire aimlessly. See *People v. Eason*, 326 Ill. App. 3d 197, 209, 760 N.E.2d 519, 529 (2001) (discussing connection between recklessness and firing "aimlessly" in context of involuntary manslaughter). He was aware of the presence of Frost and fired generally toward him. In other words, the jury could readily find from defendant's own account that he was not firing with mere recklessness, but was discharging the weapon in the direction of Frost.

¶ 32 Defendant points to *Charleston* as an example of an improper conviction for aggravated discharge. *People v. Charleston*, 278 Ill. App. 3d 392, 393, 662 N.E.2d 923, 924

(1996). In *Charleston*, the defendant was charged with two counts of aggravated discharge—one for firing at or into an occupied building and a second for firing in the direction of a person. 720 ILCS 5/24-1.2(a)(1), (a)(2) (West 1994)

¶ 33 *Charleston* found that any finding on the direction of the discharge was purely speculative. The strongest evidence came from the resident of an upstairs apartment who testified that she saw a man fitting the description of the defendant exit a vehicle and enter the yard and then heard three shots in succession. Upon hearing the first shot, the witness hit the floor. *Charleston* found that a conviction could not stand on such a paucity of evidence:

"Here, there was strong evidence that defendant discharged a weapon, but the evidence concerning the direction in which the shots were fired was lacking. Peterson did testify that shots were fired, but she did not indicate that the shots were fired in her direction or at the building itself. Further, none of the police officers who investigated the site were able to find any evidence that the shots were fired in the direction of Peterson or at the building. The jury was left to speculate whether defendant shot in the direction of Peterson (or in the direction of the building for that matter). Looking at the totality of the evidence, we conclude there was insufficient evidence whether direct or circumstantial, to support this element of the offense charged." *Charleston*, 278 Ill. App. 3d at 398, 662 N.E.2d at 927.

¶ 34 *Charleston* is readily distinguished. Unlike *Charleston*, the case against defendant was not speculative. In this case, the record contains testimony from defendant and witnesses about the direction of the shot. Moreover, the record contains physical evidence. Defendant asserts that the photographs of the scene support his testimony that the shot was not fired at a downward trajectory, but, even accepting defendant's account, this would not place the case in line with *Charleston*. *Charleston* lacked any evidence of the direction of

the discharge. In the case at hand, the jury could readily find that shooting the wall, regardless of whether it was in a downward trajectory, was firing in the direction of another person.

¶ 35 The most serious allegation made by defendant is that he was improperly cross-examined about the veracity of other witnesses. Undoubtedly, the prosecutor erred. Questioning a defendant about whether prosecution witnesses are lying has repeatedly been found to be improper. *People v. Mitchell*, 200 Ill. App. 3d 969, 977, 558 N.E.2d 559, 565 (1990). Such questions invade the province of the jury and subject an accused to ridicule. *People v. Hainline*, 77 Ill. App. 3d 30, 33, 395 N.E.2d 1224, 1227 (1979).

¶ 36 Nonetheless, such questioning has been found to be harmless when the evidence of a defendant's guilt is overwhelming. *People v. Baugh*, 358 Ill. App. 3d 718, 740, 832 N.E.2d 903, 922 (2005); see *People v. Young*, 347 Ill. App. 3d 909, 926, 807 N.E.2d 1125, 1139 (2004) (listing precedent on issue). In instances where the evidence is closely balanced and the case hinges on the credibility of witnesses, such error may be reversible. *Young*, 347 Ill. App. 3d at 926, 807 N.E.2d at 1139. Moreover, such questioning may accumulate with other errors to endanger the integrity of the judicial process. *Young*, 347 Ill. App. 3d at 926, 807 N.E.2d at 1139. In the case at hand, the error was harmless.

¶ 37 Several factors distinguish this case from instances where the integrity of the judicial process was called into question. Initially, in contrast to instances where reversal was warranted, the improper questions were not at the core of the cross-examination of defendant. *Young*, 347 Ill. App. 3d at 926, 807 N.E.2d at 1139; see *People v. Nwadiiei*, 207 Ill. App. 3d 869, 876, 566 N.E.2d 470, 474 (1990). *Nwadiiei*, a case relied on by defendant on appeal, illustrates this distinction. In *Nwadiiei*, the prosecutor devoted most of the cross-examination to this line of questioning—asking the defendant about the veracity of other witnesses more than 20 times. *Nwadiiei*, 207 Ill. App. 3d at 876, 566 N.E.2d at 474. *Nwadiiei*

distinguished itself from cases like the one at hand where such questioning was less extensive. *Nwadiiei*, 207 Ill. App. 3d at 876, 566 N.E.2d at 474 (citing *People v. Graves*, 61 Ill. App. 3d 732, 747, 378 N.E.2d 293, 304 (1978) (three questions); *People v. Hicks*, 133 Ill. App. 2d 424, 434, 273 N.E.2d 450, 458 (1971) (four questions)).

¶ 38 Moreover, unlike other instances where reversal was warranted, the error was not compounded by other improper conduct. On appeal, defendant cites to cases where the improper questions facilitated further improprieties or accumulated with other error. *People v. Young*, 347 Ill. App. 3d 909, 927, 807 N.E.2d 1125, 1140 (2004) (prosecutor vouched for witnesses, interjected his own opinions regarding evidence, commented on prior bad acts and questioned defendant regarding postarrest silence); *Nwadiiei*, 207 Ill. App. 3d at 878, 566 N.E.2d at 476 (prosecutor introduced evidence of bad character and improper exhibits); *People v. Barnes*, 182 Ill. App. 3d 75, 80, 537 N.E.2d 949, 952 (1989) (prosecutor introduced evidence of bad character); *People v. Riley*, 63 Ill. App. 3d 176, 182, 379 N.E.2d 746, 751 (1978) (reversed on impermissible bolstering of witness before discussing other conduct of prosecution).

¶ 39 Most significantly, reversal is unwarranted because the evidence of defendant's guilt is overwhelming. *People v. Baugh*, 358 Ill. App. 3d 718, 740, 832 N.E.2d 903, 922 (2005). On appeal, the State invites this court to analyze defendant's claim under plain error analysis, as defendant failed to object to the questions or raise the issue in a posttrial motion. *Hainline*, 77 Ill. App. 3d at 33, 395 N.E.2d at 1227. Regardless of the failure to object at trial, the error does not call for reversal. Although this court does not condone the prosecutor's questions, the record strongly supports the jury's verdict and so will not be disturbed.

¶ 40 Defendant also contends that the prosecutor elicited other-crimes evidence. Defendant points to the testimony of one of the responding police, Officer Morris. Morris

testified that he responded with other law enforcement to a report of shots fired and that they then attempted to secure the perimeter. As he was observing the perimeter, he saw a man walking on the parking lot and as the man approached he "recognized him as Ben Scott or Benjamin Scott." Defendant contends that this implied defendant had a history of police involvement. *People v. Stover*, 89 Ill. 2d 189, 196, 432 N.E.2d 262, 265 (1982); *People v. Bryant*, 113 Ill. 2d 497, 514, 499 N.E.2d 413, 421 (1986).

¶ 41 The precedent relied on by defendant is readily distinguished. *Stover*, 89 Ill. 2d at 196, 432 N.E.2d at 265; *Bryant*, 113 Ill. 2d at 514, 499 N.E.2d at 421. In both *Stover* and *Bryant*, the defendants were granted a new trial on unrelated grounds. Nonetheless, both opinions discuss the impropriety of soliciting testimony from police that they were acquainted with a defendant. See *People v. Adkins*, 239 Ill. 2d 1, 27, 940 N.E.2d 11, 26 (2010). The guidance provided by *Stover* and *Bryant* was not deviated from in this case.

¶ 42 In *Stover*, the initial or threshold question was whether the defendant was improperly impeached by a prior guilty plea. After finding the admission of the prior guilty plea constituted reversible error, *Stover* proceeded to address the propriety of a line of questioning by the prosecutor. In *Stover*, the prosecutor directly asked the arresting officer whether he had been acquainted with the defendant prior to the incident. *Stover* rejected the State's contention that the inquiry was relevant to whether the defendant was aware that the arresting officer was indeed law enforcement. *Stover* noted that the defendant's awareness had already been clearly established before the inquiry. *Stover* concluded:

"The State next argues that the question did not provide a basis from which the jury could infer that defendant had previously engaged in illegal conduct. It has been held that evidence that the arresting officer was previously acquainted with defendant does not necessarily imply a criminal record. (*People v. Rogers* (1940), 375 Ill. 54, 59.) However, under the circumstances of this case, there is no apparent reason why the

prosecutor would inquire into defendant's previous acquaintance with Doty unless an implication of prior criminal activity was intended. We trust that on retrial such inquiry will not recur." *Stover*, 89 Ill. 2d at 196, 432 N.E.2d at 266.

¶ 43 Unlike the irrelevant and prejudicial inquiry in *Stover*, the prosecutor simply asked Officer Morris what happened while he was securing the perimeter. Morris then described taking defendant into custody. *Stover* acknowledges that evidence of a prior acquaintance does not necessarily imply a criminal history. *Stover*, 89 Ill. 2d at 196, 432 N.E.2d at 266. Illinois courts have evaluated such testimony in the context of an officer's testimony. See *People v. Outlaw*, 388 Ill. App. 3d 1072, 1089, 904 N.E.2d 1208, 1224 (2009) (testimony related to ability to identify the defendant in court); *People v. Doll*, 126 Ill. App. 3d 495, 505, 467 N.E.2d 335, 342 (1984) (permissible to examine familiarity in light of questions by defendant); *People v. Hoddenbach*, 116 Ill. App. 3d 57, 62, 452 N.E.2d 32, 36 (1983) (incidental to description of search). Given that the statement was incidental to Officer Morris's description of placing defendant in custody, any potential for prejudicial implication was minimal.

¶ 44 *Bryant* illustrates the distinction between the case at hand and prejudicial implication. In *Bryant*, the prosecutor elicited testimony that the defendant had continued to flee after police had called out his name. The defendant's flight after hearing his name was then pointed out by the prosecutor twice in closing argument and again in rebuttal. *Bryant*, 113 Ill. 2d at 514, 499 N.E.2d at 421. In contrast to *Bryant*, the State did not return to Officer Morris's passing reference. Defendant's assertion that the jury was invited to make an impermissible implication is not supported.

¶ 45 Defendant also contends that Officer Morris failed to comply with the requirements of *Miranda*. *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). At a motion to suppress hearing, Morris was asked if he asked defendant any questions. Morris responded that he did

not have the police reports in front of him, but did not remember doing so. At trial, Morris testified that he asked defendant if he had been in apartment 12C when he took defendant into custody.

¶ 46 Defendant's claim lacks merit. The State points out that Officer Morris's testimony at trial was literally consistent with his testimony at the suppression hearing and that, even if defendant's characterization was correct, defendant's rights were not violated. Indeed, the statements to Officer Morris were never the subject of a motion to suppress. Defendant moved to suppress statements made to Officer Martin on the way to the police station, but not those of Officer Morris. Defendant filed two other motions to suppress—one to suppress correspondence defendant sent to the ARDC and another regarding Frost's identifying defendant at the scene. Even if this court were to extrapolate the difference in testimony into a substantive inconsistency, there is no reason to assume that the rulings on these motions would have been different had Officer Morris testified the same at the suppression hearing as he did at trial.

¶ 47 In addition to not moving to suppress Officer Morris's statement, defendant did not object at trial. This constituted waiver. *People v. Bui*, 381 Ill. App. 3d 397, 405, 885 N.E.2d 506, 514 (2008); *People v. Enoch*, 122 Ill. 2d 176, 186, 522 N.E.2d 1124, 1129 (1988). Nonetheless, an explanation for the waiver is readily apparent from the record—defendant's statement to Officer Morris was superfluous. Other evidence clearly established defendant's presence in the apartment, and there is no indication that anything defendant said to Officer Morris influenced later investigation of the incident. Indeed, defendant's presence in the apartment never appears to have been questioned.

¶ 48 Defendant lastly contends that his sentence was excessive. Defendant concedes that his 7-year sentence fell within the range of the statutory minimum of 4 years and maximum of 15 years. 720 ILCS 5/24-1.2(1), (2) (West 2008); 730 ILCS 5/5-4.5-30(a) (West 2008).

Nonetheless, defendant asserts that his case warranted the imposition of the statutory minimum. Defendant asserts that he has a positive record of working and attending school and that he lacked any significant criminal history. Defendant supported his positive record with supporters at his sentencing.

¶ 49 Trial courts are granted broad discretionary powers in imposing a sentence, and reviewing courts will not alter the sentence absent an abuse of that discretion. *People v. Alexander*, 239 Ill. 2d 205, 213, 940 N.E.2d 1062, 1066 (2010). The trial court judge observed defendant and the proceedings, and was in a superior position to weigh both the mitigating and aggravating factors. *People v. Fern*, 189 Ill. 2d 48, 53, 723 N.E.2d 207, 209 (1999). Nothing indicates that the trial court did not weigh all of the factors. Although defendant stresses the mitigating factors, other factors such as the serious harm posed by defendant's conduct and the need for deterrence were also relevant. The trial court did not abuse its discretion.

¶ 50 Accordingly, the judgment of the circuit court of Saline County is hereby affirmed.

¶ 51 Affirmed.