

No. 1-12-2327

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of Cook County.
Plaintiff-Appellee,	)	
	)	
v.	)	No. 09-CR-18501
	)	
REGINALD OWENS,	)	Honorable
	)	Charles P. Burns,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE HOFFMAN delivered the judgment of the court.  
Justices Cunningham and Delort concurred in the judgment.

**ORDER**

¶ 1 *Held:* The defendant's convictions and sentences were affirmed where the evidence was sufficient to sustain the convictions, the court did not err in adding statutory sentence enhancements for discharging a firearm during the commission of the offenses, and the court did not abuse its discretion in imposing a sentence within statutory guidelines; the mittimus was corrected as the State conceded the defendant was entitled to an additional two days of presentence credit.

¶ 2 After a jury trial, the defendant, Reginald Owens, was convicted of two counts of attempted first degree murder and sentenced to two consecutive sentences of 30 years' imprisonment. On appeal, the defendant argues that: (1) the State's unreliable eyewitness

identification evidence was insufficient to prove him guilty beyond a reasonable doubt; (2) the circuit court erred when it added the 20-year firearm sentence enhancement to both attempted murder convictions where there was no evidence he personally shot both victims; (3) the circuit court abused its discretion in imposing the same sentence on him as his codefendant, who had a more extensive felony record; and (4) he is entitled to an additional two days of presentence credit, for a total of 1021 days. The State concedes that the defendant is entitled to an additional two days of presentence credit. We, therefore, modify the defendant's mittimus to reflect a total of 1021 days of presentence credit, but we affirm the defendant's conviction in all other respects.

¶ 3 The defendant was charged by indictment with two counts of attempted first degree murder (720 ILCS 5/8-4, 9-1 (West 2008)) and two counts of aggravated battery with a firearm (720 ILCS 5/12-4.2(A)(1) (West 2008)). The State alleged that, on September 21, 2009, he and codefendant, Billy Anderson, personally discharged their firearms in the direction of two victims, brothers Barron and Alphonso Hall. The defendant, who chose a jury trial, and codefendant Anderson, who chose a bench trial, were tried at the same time. Both men were convicted of two counts of attempted murder and each was sentenced to two consecutive terms of 30 years' imprisonment. Codefendant Anderson, however, is not a party to this appeal.

¶ 4 The State presented the following evidence at trial. Victim Barron Hall testified that, on September 21, 2009, he was drinking alcohol outside of his apartment building at 7109 South Ridgeland in Chicago with his brother, Alphonso Hall. Barron recalled that, at one point that day, Chicago police officers told the brothers to drink inside their home, which they did. Shortly thereafter, Barron went back outside because he heard Alphonso arguing with someone. He next recalled waking up in the hospital with gunshot wounds in his head, chest, and spine. Barron testified that he was now a paraplegic as a result of the gunshot wound to his spine.

¶ 5 Victim Alphonso Hall testified that, on September 21, 2009, he was at Barron's apartment in Chicago. At around 9 p.m., a group of men approached Barron, accusing him of selling drugs in the area and advising that he needed to stop. Alphonso stated that, after Barron and the men walked away from each other, he and Barron went to the liquor store, purchased a fifth of vodka, and returned to Barron's apartment to drink in front of the residence. A group of nine or ten men returned to tell Barron to stop his drug business, and Alphonso called the police. Alphonso testified that the police did not question the group of men and left after advising the brothers to drink their alcohol inside of their home, which they did.

¶ 6 Alphonso testified that, after the police left, he and Barron returned outside, and he noticed a man and a woman looking out of the second or third floor window of the apartment building. The man said "I'm the shooter," to which Alphonso stated "Well, shoot me, you know; you got to pay for what you do; ain't no free bodies." The man got on his phone and shortly thereafter, two armed men arrived on foot. Alphonso testified that he saw Barron get shot in the head and then he felt himself get shot. He stated that he saw the two shooters from a distance of about three or four feet while he ran toward the house, trying to avoid their gunfire. Alphonso said he fell on the steps, but he eventually made it inside the apartment.

¶ 7 Alphonso estimated that he heard about 10 or 12 gunshots. He stated that, while the shooting occurred at night, the front of the building was "really bright" because there were light poles on the corner and the building had security lights. Alphonso identified the security lights in photographs of the scene; the photographs are not contained in the appellate record.

¶ 8 Alphonso testified that, on September 22, 2009, while in the hospital, he spoke to Chicago Police Detective Sylvia Van Witzenberg and identified the defendant from a photo lineup that she presented to him, stating he was the "guy that was shooting." He admitted that he

was medicated at the hospital following his surgery. However, he denied having any difficulty understanding the detectives' questions or having any difficulty answering the questions posed to him. He testified that, on October 1, 2009, he identified the defendant in a physical lineup at the police station. Alphonso further testified that, on October 26, 2009, he identified codefendant Anderson in a physical lineup at the police station, stating that he was the "guy that shot me."

¶ 9 On cross-examination, Alphonso denied that the armed men wore hoods. He also admitted providing false names and dates of birth to police in the past and having prior felony convictions, but he denied that he had problems telling the truth. He also admitted that he did not tell the police that he smoked marijuana on the day of the shooting and that he told the police he drank one cup of vodka, when in fact he drank two or three cups. However, he did not testify that his consumption of alcohol and marijuana affected his ability to observe and identify the shooters. He testified that he had no trouble identifying the defendant or codefendant Anderson in the photo or physical lineups.

¶ 10 Vivian Pettigrew, a 52-year-old woman who lived across the street from Barron's apartment, testified that, on the night of September 21, 2009, she went to sleep with earplugs and an eye mask, as she normally did, but she was awakened by a man's voice stating "shoot, shoot." She got up, looked out her living room window, and saw two men later determined to be Alphonso and Barron, standing outside the front of the apartment building across the street. She heard Alphonso say "shoot, shoot," while looking up at the third floor window above him. Pettigrew described the area as well-lit and said the lights near the front doorway of Barron's apartment building and the streetlights were bright.

¶ 11 Pettigrew testified that, after Alphonso spoke to the man in the third-floor window, she saw a man walk towards Barron, they spoke for a short time, and the man left. She then saw two

men, whom she later identified as the defendant and codefendant Anderson, lined up against the wall of the alley, "bent over like ninjas," with guns drawn. The two armed men, standing close together, looked in Pettigrew's direction and then exited the alley, moving south towards Barron and Alphonso. Pettigrew testified that the armed men "stood in front of [Barron and Alphonso] and shot them up." She testified that the defendant shot Alphonso and codefendant Anderson shot Barron. She stated that Barron fell to the sidewalk almost immediately, and Alphonso tried to run inside. Pettigrew testified that the shooters turned and ran north, with their guns still visible. After the men crossed the alley, she saw them both lift hoods over their heads.

¶ 12 Pettigrew testified that nothing was covering the shooters' faces when they looked in her direction or when they were shooting at the victims. She also stated that nothing obstructed her view of the shooting. Pettigrew testified that she kept her eyes on the shooters to watch where they went. When they were out of her view, she turned her eyes back to the victims. Pettigrew saw another girl across the street calling the police, and she admitted she did not go outside to talk to police about what she saw because she was afraid. However, she stated that her "spirit was troubled" all night, and so she went to the police the next day.

¶ 13 Pettigrew testified that, on September 22, 2009, she told the police that she recognized the defendant, who she described as the "thin man in the alley," as the man who nearly hit her car less than a month earlier while he drove recklessly through the neighborhood. She had written down the defendant's license plate number from memory and provided the paper, which contained four numbers, to the police who traced one number to a car registered to the defendant. Pettigrew testified that she identified the defendant from a photo lineup. She also told the police that she recognized the larger man, later identified as codefendant Anderson, as someone she had seen around the neighborhood.

¶ 14 After leaving the police station, Pettigrew went home and saw codefendant Anderson on Ridgeland Avenue near her home. She called the police, and she saw officers approach him. On October 8, 2009, the police asked Pettigrew to view a physical lineup at the station, and she identified the defendant from that lineup. She also informed detectives about her call to police on September 22, and the officers presented her with a photo lineup from which she identified codefendant Anderson. She later identified Anderson in a physical lineup at the police station on October 26, 2009.

¶ 15 Pettigrew admitted that, in April 2010, she asked the Cook County State's Attorney Office for relocation assistance and was given \$3,250.50, which she used to move away from the neighborhood. She testified that the State's Attorney Office did not promise her anything in exchange for the financial assistance or for her testimony. Pettigrew also admitted that she used prescription reading glasses to read small print and that she was not wearing any glasses when she observed the shooting incident. She explained that she did not require glasses to see large scenes like the crime scene.

¶ 16 Chicago Police Detective Devin Jones testified that he reported to the scene shortly after the crime and described the area as well-lit, noting that he did not need his flashlight to see. He testified that the building had security lights, including a light directly south and north of the building's front door and a light directly above the door. He also observed a flood light in between the first and second floors of the doorway. Detective Jones admitted, however, that evidence technicians used the flashes on their cameras when taking photographs at the scene and that photos of all the lights were not taken.

¶ 17 On October 1, 2009, Detective Jones had Alphonso come to the police station to observe a physical lineup from which he identified the defendant. On October 8, 2009, Detective Jones

had Pettigrew do the same and she also identified the defendant. She also informed them of her September 22 call to police. Detective Jones searched the police database, determined that no arrest was made that date, and located a contact card for codefendant Anderson. He then had Pettigrew view a photo lineup from which she identified codefendant Anderson. On October 26, 2009, Detective Jones asked Pettigrew and Alphonso to come to the police station for a physical lineup at which both independently identified codefendant Anderson. Detective Jones testified that Pettigrew and Alphonso had no contact with each other that day.

¶ 18 Chicago Police Detective Sylvia Van Witzenberg testified consistently with Pettigrew regarding the license plate information she provided on September 22, 2009, and her identification of the defendant from the photo lineup. Detective Van Witzenberg also stated that, when shown another lineup not containing the defendant's photo, Pettigrew did not identify anyone. She then interviewed Alphonso at the hospital, who also identified the defendant from the photo lineup. She admitted that Alphonso did not tell her about the conversation he had with the man in the window of the second or third floor apartment or about his use of marijuana. Detective Van Witzenberg testified that Alphonso told her that both men were shooting and that he was not sure which shooters' bullets hit him.

¶ 19 Marc Pomerance, a firearms and tool marks forensic scientist with the Illinois State Police, testified that he determined that all ten bullet cartridges recovered from the scene were .9 millimeter in caliber but that they were not fired from the same gun. Pomerance explained that five cartridges had parallel-shaped breech face marks and the other five had arch-shaped bridge face marks, indicating that five shots were fired from one gun and five were fired from a different gun.

¶ 20 The defendant presented no evidence, and the jury returned guilty verdicts on all counts. The circuit court determined, however, that the aggravated battery offenses merged into the attempted murder offenses.

¶ 21 At the sentencing hearing, the State entered into evidence the defendant's three previous felony convictions for a Class 2 robbery, a Class 2 aggravated unlawful use of a weapon offense, and a Class 2 unlawful use of a weapon by a felon offense. The State argued for a sentence above the minimum given the nature of the attack on the Hall brothers and that the defendant committed the crime only months after being released from prison. The defense argued that the minimum was a sufficient sentence considering the defendant's young age of 24 years and poor childhood, which included a father in jail and a mother who was unable to raise him. In his statement of allocution, the defendant apologized to his family, the family of the victims, the victims, and the court for his conduct.

¶ 22 The circuit court noted that, under the statutory scheme, the minimum sentence for the defendant was 52 years' imprisonment, which included the minimum 6-year sentence for a Class X felony (730 ILCS 5/5-4.5-25(a) (West 2008)), the mandatory 20-year sentence enhancement for personally discharging a firearm while committing the offense of attempted murder (720 ILCS 5/8-4(c)(1)(C) (West 2008)), and the provision mandating the terms be served consecutively (730 ILCS 5/5-8-4-d(1) (West 2008)). The court observed that the defendant was young and apologetic, but that he had a criminal history, all of which involved handguns, and that he committed the present crime while on parole, only a few months after being released from prison. The court further stated that it had considered the presentence investigation report, the defendant's family history, criminal history, the impact on the victims, the nature of the offense, and all of the statutory factors in aggravation and mitigation. In so doing, the court

concluded that a sentence above the minimum was necessary and sentenced the defendant to two consecutive 30-year terms of imprisonment for each attempted murder conviction, which included 10 years' imprisonment plus the 20-year sentence enhancement for personally discharging a firearm during the commission of the crimes. The circuit court denied the defendant's motions for a new trial and reconsideration of his sentence. This appeal followed.

¶ 23 The defendant first argues that the eyewitness identifications by Alphonso and Pettigrew were unreliable and therefore insufficient to prove him guilty beyond a reasonable doubt. We disagree.

¶ 24 To determine whether sufficient evidence was presented to sustain a conviction, a reviewing court must consider all the evidence in the light most favorable to the State, and then determine if a rational trier of fact could have concluded that the State proved the elements of the crime charged beyond a reasonable doubt. *People v. Rojas*, 359 Ill. App. 3d 392, 396-97 (2005). The determinations of the fact-finder are entitled to great deference, and a conviction will only be overturned where the evidence " 'is so unreasonable, improbable, or unsatisfactory as to justify a reasonable doubt of defendant's guilt.' " *Id.* (quoting *People v. Ortiz*, 196 Ill.2d 236, 259, (2001)).

¶ 25 Regarding eyewitness identifications, a single witness identification may be sufficient proof when the witness viewed him under circumstances permitting a positive identification. *Rojas*, 359 Ill. App. 3d at 397. However, a conviction cannot stand when the identification is vague and doubtful. *Id.* When assessing identification testimony, we look to the following factors: "(1) the opportunity the [witness] had to view the criminal at the time of the crime; (2) the witness' degree of attention; (3) the accuracy of the witness' prior description of the criminal; (4) the level of certainty demonstrated by the [witness] at the identification confrontation; and (5)

the length of time between the crime and the identification confrontation." *People v. Slim*, 127 Ill.2d 302, 307-08. The reliability of a witness's identification of a defendant is a question for the jury, and it is the function of the jury, as the trier of fact, to resolve inconsistencies in the evidence and assess the credibility of the witnesses, the weight to be given their testimony, and the inferences to be drawn therefrom. *People v. Cox*, 377 Ill. App. 3d 690, 697 (2007).

¶ 26 Here, the defendant argues that Pettigrew's identification was insufficient to sustain his conviction because: (1) she viewed the crime at night from across the street, without the assistance of her eyeglasses; (2) her attention was divided between observing the shooters and fearing for her life; (3) she never gave police a description of the defendant before her identification; and (4) social science research discredits the certainty she had in her identification of the defendant. We disagree.

¶ 27 Pettigrew clearly testified that the crime scene was well-lit, and her testimony on this point was corroborated by the testimony of Alphonso and Detective Jones. She further testified that she only required glasses for reading small print, and that she was able to see the defendant from her vantage point without her reading glasses. She stated that nothing obstructed her view and nothing was covering the shooters' faces. She also recognized the defendant and codefendant Anderson from the neighborhood, and specifically recognized the defendant as the person who had nearly hit her car a few weeks earlier. Further, while Pettigrew testified that she slept on a mattress on the floor of her studio apartment for safety reasons, she did not testify that any fear she had for her personal safety affected her ability to identify the shooters. The fact that Pettigrew did not give police a description of the defendant also does not discredit her identification where, under the facts of this case, it was not necessary for her to do so. She testified that, in her first contact with the police less than 24 hours after the crime, she told them

she recognized the defendant and provided them with the defendant's license plate number from which the police were able to arrange a photo lineup. See *Cox*, 377 Ill. App. 3d at 699 (short lapse of time between crime and identification weighs in favor of reliability). The defendant attempts to spin the fact that Pettigrew recognized him by arguing that she merely was identifying the reckless driver, not the shooter. However, it is the function of the jury to draw reasonable inferences from the evidence, and the jury could have inferred that Pettigrew's identification was more reliable because she saw the defendant before the shooting. We also do not find persuasive the defendant's argument that Pettigrew's certainty in her identification is refuted by social science research as no social science evidence regarding the inherent reliability of eyewitness identification was admitted at trial. See *People v. Tomei*, 2013 IL App (1st) 112632, ¶ 55-56 ("Since defendant did not present expert testimony, we do not find defendant's argument persuasive that the fourth factor, the witness's level of certainty, should be given little weight").

¶ 28 While Pettigrew's identification alone is sufficient to sustain the defendant's conviction (*Rojas*, 359 Ill. App. at 397), we also disagree with the defendant's contention that Alphonso's identification was vague and doubtful for many of the same reasons. The defendant argues that Alphonso's identification was insufficient to sustain his conviction because: (1) he had only a split-second to observe the shooters as he was running from gunfire; (2) his attention was divided between observing the shooters and fearing for his life; (3) he never gave police a description of the defendant before the identification; and (4) social science research discredits the certainty he had in his identification of the defendant.

¶ 29 Alphonso testified that he saw the defendant from a distance of only three or four feet in a well-lit area, and that he saw the shooters' faces as he looked at them while he tried to run away

from their gunfire. The fact that Alphonso saw the defendant for only a brief moment does not render his identification unreliable. See *People v. Herrett*, 137 Ill. 2d 195, 204-05 (1990) (witness identification deemed sufficient where witness viewed the defendant's face for "several seconds"); *People v. Rodriguez*, 134 Ill. App. 3d 582, 590 (1985) (witness identification, made in court nine months after crime, deemed reliable where witness testified that he saw the defendant's face for "couple of seconds" and where the defendant fit the physical description he provided to police at time of crime). Additionally, other witnesses corroborated Alphonso's testimony that the area was well-lit at the time of the shooting. While Alphonso admitted he was medicated during his first interview with police on September 22, 2009, he testified that the medication did not affect his ability to communicate with the detectives or identify the defendant. Further, as with Pettigrew, there was no need for Alphonso to provide the police with a physical description because they already had the photo lineup prepared from Pettigrew's information, and no social science expert evidence regarding identification testimony was introduced at trial. Moreover, the identifications by both Pettigrew and Alphonso reinforce each other in that each witness independently identified the defendant shortly after the crime.

¶ 30 The defendant also argues that the witnesses' identifications were inconsistent in that Alphonso testified that the defendant shot Barron, but Pettigrew testified that he shot Alphonso, and that Pettigrew testified the shooters wore hoods, but Alphonso did not. Whether the witnesses believed that the bullets fired from the defendant's gun struck Alphonso or Barron does not render their identifications unreliable as the State did not need to prove that the defendant's bullets actually hit either victim to prove him guilty of attempted murder, but simply that he performed an act constituting a substantial step toward the crime of murder. See 720 ILCS 5/8-4(a) (West 2008) (attempt crime proven if, with intent to commit a specific offense, he does any

act that constitutes a substantial step toward commission of that offense). Here, both witnesses clearly identified the defendant as one of two men shooting at the Hall brothers, who were standing within a confined area in close proximity. Regarding the hoods, the record reflects that neither Pettigrew nor Alphonso testified that the shooters wore hoods at the time of the shooting. Rather, Pettigrew testified that the shooters raised hoods over their heads after they fled the scene, which occurred after Alphonso went inside the apartment building.

¶ 31 The defendant's remaining arguments regarding the identifications attack only the credibility of the witnesses themselves. For instance, the defendant contends that Pettigrew had a financial incentive to testify favorably for the State as she was provided relocation assistance by the State's Attorney Office and that Alphonso was impeached in several instances, including that he admitted lying to police in the past. As stated, it is the function of the jury to resolve inconsistencies in the evidence and assess the credibility of the witnesses, the weight to be given their testimony, and the inferences to be drawn therefrom (*Cox*, 377 Ill. App. 3d at 697), and we will not substitute our judgment for that of the trier of fact (*People v. McCoy*, 295 Ill. App. 3d 988, 995 (1995)). Here, defense counsel thoroughly cross-examined the witnesses regarding these issues and argued during closing statements that the jury should question the identifications for these reasons. The jury, in performing its duties as the trier of fact, nevertheless accepted the witnesses' identifications, and we have no reason to disturb its findings.

¶ 32 Next, the defendant argues that the circuit court erred when it added the 20-year firearm enhancement to both attempted murder convictions where there was no evidence that he personally shot both victims. Relying on *People v. Rodriguez*, 229 Ill. 2d 285, 295 (2008), for the proposition that the sentence enhancement applies only to principal offenders, the defendant contends that the evidence did not show that the bullets from his gun struck both Alphonso and

Barron, and therefore, he was not proven to be a principal in both attempted murders. The defendant admits that his motion for reconsideration of sentence cannot be located in the record, but even if this argument was not raised, he argues that we may review it under the plain error doctrine. We agree that we may review the issue for plain error as an improper increase in a defendant's sentence is a matter affecting his substantial rights (*People v. McBride*, 395 Ill. App. 3d 204, 208 (2009)), but we disagree that the circuit court erred in applying the sentence enhancement to both convictions.

¶ 33 In matters of statutory interpretation, our standard of review is *de novo*. *People v. Swift*, 202 Ill. 2d 378, 385 (2002). When interpreting a statute, our primary purpose is to give effect to the intent of the legislature, and the best evidence of that intent is its plain language. *Id.* "Where the meaning of a statute is plain on its face, there is no need to resort to other tools of construction," and we must avoid construing the statute in a manner which would produce absurd results. *Id.* Here, we do not find section 8-4(c)(1) to be ambiguous.

¶ 34 The defendant was convicted of two counts of attempted first degree murder, which required that the State prove that he, with the intent to kill an individual, performed any act which constituted a substantial step toward the killing of the individual. *People v. Medrano*, 271 Ill. App. 3d 97, 103 (1995) (specific intent to kill "may be inferred from the character or nature of the assault, the accompanying circumstances, and the use of a deadly weapon"). Additionally, the sentence enhancement in section 8-4(c)(1)(C) required that the State prove that, during the commission of the attempted murder, the defendant personally discharged a firearm. 720 ILCS 5/8-4(c)(1)(C) (West 2008).

¶ 35 Specifically, section 8-4(c)(1) of the Criminal Code of 1961 (Code) (720 ILCS 5/8-4(c)(1)(C) (West 2008)) provides for enhanced sentences for attempted murder offenses under

varying factual scenarios which the State may prove: 15-year enhancement for attempted murder "while armed with a firearm" (720 ILCS 5/8-4(c)(1)(B) (West 2008)); 20-year enhancement for attempted murder "during which the person personally discharged a firearm" (720 ILCS 5/8-4(c)(1)(C) (West 2008)); and 25-year to natural life enhancement for attempted murder during which the personal personally discharged a firearm "that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person" (720 ILCS 5/8-4(c)(1)(D) (West 2008)).

¶ 36 Here, the jury was given special verdict forms for both attempted murder counts asking that, if it found the defendant guilty of the attempted murder of each victim, whether it also found that the State proved beyond a reasonable doubt that the defendant personally discharged a firearm during the commission of the offense. The jury found the defendant guilty on both attempted murder counts, and it found in the affirmative on both special verdict forms. The fact that the defendant's bullets may not have struck one, or either, of the victims is irrelevant as the State charged and tried him under section 8-4(c)(1)(C) of the Code, which required only proof that the defendant personally discharged his firearm while attempting to kill the victims. Proof that the defendant's bullets caused great bodily harm would have been necessary had the State sought the 25-year enhancement under section 8-4(c)(1)(D) of the Code. See, *People v. Flynn*, 2012 IL App (1st) 103687, ¶ 36-38 (finding that, where there was no dispute the accountable first-degree murder defendant personally discharged his firearm during commission of the murder, he was eligible for 20-year sentence enhancement, but not the 25-year enhancement which required the State to prove the defendant's gunshots actually caused victim's death).

¶ 37 The defendant's reliance on *Rodriguez* for the proposition that the sentence enhancement applies only to principal offenders is misplaced. In *Rodriguez*, the court determined that the

sentence enhancement for first degree murder offenders "armed with a firearm" contained in section 5-8-1(a)(1)(d)(i) of the Unified Code of Corrections (730 ILCS 5/5-8-1(a)(1)(d)(i) (West 2006)) applied to an unarmed first degree murder offender convicted on an accountability theory, because section (i) did not contain the limiting language, "personally," contained in (ii) and (iii), which parallels the language contained in section 8-4(c)(1)(C). *Rodriguez*, 229 Ill. 2d at 295 (agreeing that the language in 730 ILCS 5/5-8-1(a)(d)(ii), (iii) applied only to those who actually discharged a firearm during a first degree murder and not to their codefendants who did not discharge a firearm); see also 730 ILCS 5/5-8-1(a)(1)(d)(ii) (West 2006) (providing 20- and 25-year sentence enhancement to the person who "personally discharged" a firearm during a first degree murder). The court in *Rodriguez*, therefore, concluded that the accountable first-degree murder defendant did not have to "personally" be armed in order to be subject to the 15-year sentence enhancement. *Rodriguez*, 229 Ill. 2d at 295. The rationale in *Rodriguez* only supports our conclusion that the defendant is subject to the enhancement under section 8-4(c)(1)(C) for both convictions as the jury found that the State had proven that the defendant personally discharged his firearm during the commission of both offenses. Therefore, the defendant's argument that the circuit court erred in applying the 20-year sentence enhancement to both attempted murder convictions fails.

¶ 38 Next, the defendant contends that the circuit court abused its discretion in sentencing him to two consecutive sentences of 30 years' imprisonment. He argues that his sentence is unfair where he and codefendant Anderson were equally culpable, but where he was much younger and had a less extensive criminal history than Anderson. The defendant states that Anderson had three juvenile convictions, one adult misdemeanor conviction, and ten adult felony convictions whereas he had only three adult felony convictions. We disagree with the defendant's argument.

¶ 39 "The trial court has broad discretionary powers in sentencing, and when the sentence imposed is within the statutory range, it may be disturbed by a reviewing court only if there was an abuse of discretion by the trial court." *People v. McComb*, 312 Ill. App. 3d 589, 596 (2000). Courts have observed that there can be an abuse of discretion when two codefendants are given the same sentence but have widely different criminal records and different roles in the particular crime, or where there is a difference in other sentencing factors. *People v. Stambor*, 33 Ill. App. 3d 324, 326, 337 N.E.2d 63, 65 (1975). Here, the defendant and codefendant Anderson did not have widely different criminal backgrounds given their ten-year age difference, and they were equal participants in the crime. In determining the sentence, the court noted that a sentence above the minimum was needed where the defendant already had three prior felony convictions, used firearms in each of those prior offenses, and committed the present offenses within months of being released from prison. Moreover, each sentence was only four years over the minimum and well within the statutory range for the offense, which allowed for a minimum of 6 years but not more than 30 years for the Class X felony (see 730 ILCS 5/5-4.5-25 (West 2008)). Under these facts, we cannot find that the circuit court abused its discretion in imposing equal sentences for both defendants.

¶ 40 Finally, the defendant argues that he is entitled to an additional two days of presentence credit, for a total of 1021 days. The State concedes this point, and we therefore order that the defendant's mittimus be corrected to reflect 1021 days of presentence credit.

¶ 41 For the reasons stated, we modify the defendant's mittimus to reflect a total of 1021 days of presentence credit, and we affirm the defendant's conviction in all other respects.

¶ 42 Affirmed as modified.