

2020 IL App (1st) 172161-U

No. 1-17-2161

Order filed January 10, 2020

Fifth Division

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 15 CR 19550
)	
JEROME CRAFT,)	Honorable
)	Ursula Walowski,
Defendant-Appellant.)	Judge, presiding.

JUSTICE DELORT delivered the judgment of the court.
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

ORDER

¶ 1 *Held:* The evidence presented at trial was sufficient to support defendant's conviction for aggravated battery with a firearm. The circuit court appropriately weighed factors in aggravation and mitigation when sentencing defendant.

¶ 2 Following a bench trial, the circuit court found defendant guilty of one count of aggravated battery with a firearm and sentenced him to 16 years' imprisonment. Defendant appeals, contending that the evidence was insufficient because the victim's identification

testimony was unreliable and no other evidence linked him to the incident. He further contends that his sentence was excessive because of his rehabilitative potential. We affirm.

¶ 3 Defendant was charged by indictment with attempt murder (720 ILCS 5/8-4(a) (West 2014)); (720 ILCS 5/9-1(a)(1) (West Supp. 2015)) and aggravated battery with a firearm (720 ILCS 5/12-3.05(e)(1) (West Supp. 2015)).

¶ 4 Before trial, the court inquired about plea negotiations. Defense counsel relayed the State's offer of six years' imprisonment to be served at 85% in exchange for a plea of guilty to an unspecified offense not subject to a firearm enhancement. The court instructed defendant it would accept that agreement, but he declined and the case proceeded to trial.

¶ 5 Dion Bell testified that he was on parole for a firearm offense at the time of trial. In September 2015, he was walking in an alley behind his house on West 112th Street in Chicago when a Durango drove past him at a high speed. He yelled at the vehicle to slow down. It was approximately noon and bright outside. Bell, standing less than 10 feet from the vehicle, saw three occupants, including a woman driving and a man in the rear passenger seat. The man in the rear passenger seat told Bell, "We ain't gotta do s****" because this was "my mother f****ing alley," and the Durango drove away. Bell identified that man as defendant in court.

¶ 6 On October 6, 2015, at around 7:50 a.m., Bell was sitting on his front porch. A red Chrysler 200 C stopped across the street, and a man exited and approached Bell. Bell did not immediately recognize him. The man moved his right index finger in a gesture Bell recognized as a request for marijuana, and asked Bell if he ever wore his hair in dreads or twists. During the September incident, Bell's hair was in twists, but it was not on October 6, 2015. When Bell

confirmed that he previously wore his hair in twists, the man identified himself as a passenger in the Durango during the September incident.

¶ 7 As Bell and the man stood in front of the porch, the man walked one foot from Bell and said, “don’t run.” Bell then recognized the man, and again identified him as defendant in court. Defendant lifted his shirt, and Bell saw a firearm with an extended clip in his waistband. Bell ran across his lawn, heard gunshots, and realized he was hit. He did not see defendant pull the trigger, but no one else was in the area. Bell’s brother and sister, who were inside the house, came outside to assist him.

¶ 8 Bell went to the hospital, where he remained for four to five weeks. He sustained gunshots to his left arm and his back. The bullet that entered his back exited through his stomach, leaving scars in both areas. He also needed surgery to remove a bullet lodged in his left wrist. At some point, Bell’s brother came to the hospital and showed him a YouTube video featuring a rap artist. Bell identified defendant as the artist. In the video, defendant held a firearm with an extended clip that resembled the one Bell saw on October 6, 2015.

¶ 9 On October 15, 2015, Bell went to the police station and viewed a photo array. Defendant’s photo was one of six in the array. Bell identified defendant as the shooter. On October 31, 2015, Bell returned to the police station and viewed a single photo of defendant, a still frame from the YouTube video in which defendant held a firearm with an extended clip. Bell again identified defendant as the shooter.

¶ 10 On cross-examination, Bell testified that he did not know exactly how much time passed between the September incident and the shooting. He denied that any individual exited the Durango during the September incident. He also denied fleeing into his yard. He testified that he

forgot about the incident between the date in September and October 6, 2015. However, Bell admitted that after the September incident, he spoke with his mother and sister to find out who was in the Durango. His sister's boyfriend told him the occupants included two men named Rome and Santana.

¶ 11 Bell described the shooter's clothing as a black shirt and purple jogging pants. He did not remember the shooter wearing a hooded sweatshirt. He denied telling Detective Alejandro Almazan at the hospital that the shooter wore a black and white hooded sweatshirt, a black baseball cap, and dark pants. He also denied telling officers at the scene of the shooting that he saw a green or silver Durango.

¶ 12 On redirect, Bell testified that, during his interview with Almazan, he was receiving morphine for his pain. He did not make an identification during that interview. After watching the YouTube video, he learned that defendant's stage name is Rome.

¶ 13 Detective Dave Evans testified that on October 31, 2015, he was assigned Bell's case and learned that a suspect, defendant, was in custody. Defendant was Mirandized, and Evans interviewed him four times that day. During the first interview, defendant denied knowledge of the September incident, but admitted that his friend Boozer had a Durango.

¶ 14 Evans spoke with Boozer, who told him that defendant had mentioned a confrontation in an alley. Evans confronted defendant with Boozer's statement during the second interview. Defendant admitted that the September incident occurred. He said he was with his friend Santana in the Durango. Defendant was in the rear passenger seat, next to an infant in a child seat, as they drove through the alley. Evans determined that Santana was an individual named Devon Ellzey and confirmed this by showing a picture of Ellzey to defendant. Ellzey was in custody when

Evans confirmed his identity but was transferred before Evans could interview him. Defendant also identified the Durango's driver during the September incident as a woman named Frita. Evans contacted Frita, who was uncooperative.

¶ 15 During the third interview, defendant said he would tell "the real truth" and relayed additional details about the September incident. He said that he and Ellzey had a "confrontation" with Bell. Frita stopped the Durango, and Ellzey and defendant exited. Bell then ran into a yard.

¶ 16 Evans returned later for the fourth interview and told defendant that his story was still not "adding up." Defendant again responded that he would tell the "real truth." He stated that Ellzey shot Bell on October 6, 2015. He knew details about the shooting because Ellzey told him. On October 5, he and Ellzey spent the night at a house near Bell's. In the morning of October 6, Ellzey left to buy marijuana from Bell's neighbor. Ellzey walked towards Bell and made a gesture with his finger. As Ellzey approached, he recognized Bell as the person from the September incident, and asked Bell about his hair. Once Ellzey confirmed Bell was the person from the alley, Ellzey shot him because Bell had disrespected Ellzey. Ellzey fired six times, hitting Bell four times. When Evans asked how defendant knew about the six shots and four hits, defendant said he "googled it." Evans was "shocked" at how much detail defendant knew and decided to charge him with the shooting.

¶ 17 On cross-examination, Evans testified that defendant never admitted he shot Bell. Evans confirmed that defendant said Ellzey always wears hats because his hair is "blotchy" or "missing." After learning that Ellzey had been transferred, Evans made no attempt to interview him before charging defendant. Bell told Evans that he ran into a yard during the September incident.

¶ 18 On redirect, Evans confirmed that during his investigation he instructed another detective to show Bell a photo array containing Ellzey's picture. Bell did not identify anyone in that array.

¶ 19 The State recalled Bell. He stated that he participated in two separate photo identification procedures on October 31, 2015. In one, he viewed a single photo of defendant, and in the other, he viewed a photo array in which he did not recognize anyone. On cross-examination, he agreed that he viewed the YouTube video before the October 15, 2015 photo array identification.

¶ 20 Finally, the State called Detective Lorenzo Sandoval. He testified that he conducted the photo array containing Ellzey's photo on October 31, 2015, and Bell did not identify anyone.

¶ 21 The State entered a stipulation that if called, Officer Kelly Comiskey would testify that on October 6, 2015, she collected two 9-millimeter Luger discharged cartridge casings near the stairs of Bell's home.

¶ 22 Defendant introduced stipulated testimony from Detectives Almazan, Evans, and Pat Durkin, and Officer Theodore Browning. If called, Almazan would testify that he interviewed Bell in the hospital on October 8, 2015. During the interview, Bell identified the men in the Durango during the September incident as Santana and Rome. He also described the person that shot him on October 6, 2015, as a "male black, 20 to 25, with a black and white hooded jacket, a black baseball cap and dark pants."

¶ 23 Evans and Durkin would testify that on October 15, 2015, Bell told them that during the September incident, he argued with the occupants of a dark green Dodge Durango and then fled into a yard. During the argument, defendant said to Bell, "we ain't got to do nothing, this is our alley." Bell responded, "if y'all want to do anything y'all can just get out of the [vehicle] and just do something."

¶ 24 Browning would testify that he responded to the scene of the shooting on October 6, 2015. He spoke to Bell and his brother. Bell's brother stated that he was inside when Bell was shot in a drive-by shooting. Bell described the vehicle as a green or silver Dodge Durango.

¶ 25 The circuit court found defendant guilty of aggravated battery with a firearm and not guilty of attempt murder. The court found Bell's testimony credible based on his in-court demeanor and "how he was able to identify defendant." According to the court, Bell's impeachment was not "significant." The court denied defendant's motion for a new trial and the matter proceeded to sentencing.

¶ 26 Defendant's presentence investigation (PSI) report revealed that he was 25 years old on the date of the shooting. He had felony convictions for involuntary manslaughter in 2009, for which he was sentenced to four years' imprisonment; aggravated unlawful use of a weapon in 2008, for which he was serving probation when he was arrested on the involuntary manslaughter charge; and misdemeanor convictions for possession of cannabis, reckless conduct, gambling, and resisting a peace officer. He reported strong relationships with his parents and siblings. In his junior year of high school he was expelled for fighting. From age 16 to 21, he belonged to the Gangster Disciples street gang. Before his arrest, defendant was an aspiring musician and made \$2000 per month from CD sales and \$750 to \$1000 per concert performance. His stage name is "Rome." He reported having five children with five different mothers, but listed no expenses and was living with his mother at the time of his arrest.

¶ 27 In aggravation, Detective John Otto testified regarding defendant's involuntary manslaughter conviction. Otto said that defendant accidentally shot and killed his friend Nehshon Kimball, then staged Kimball's body to suggest a drive-by shooting happened. After

the police interviewed witnesses who confirmed defendant was the real shooter, he admitted to the shooting and to moving the body because he did not want the police to find the firearms and drugs inside the house where the shooting occurred.

¶ 28 In a victim impact statement, Bell described his injuries and the physical and emotional impact the incident had on him and his family. He has trouble sleeping due to flashbacks, reduced mobility in his arm, and difficulty walking due to back pain. He stated that he lives in constant fear of defendant and defendant's friends and family, and carries a firearm for protection.

¶ 29 The State requested a sentence near the maximum of the Class X sentencing range of 6 to 30 years. The State argued that although defendant had a good family and a promising music career, he chose a lifestyle involving firearms. The State cited defendant's arrest for gun possession less than a year after accidentally shooting and killing his friend, and noted that defendant concealed the circumstances of Kimball's death and exhibited "little regard for the welfare and safety" of others. Further, according to the State, defendant demonstrated poor character because he listed no expenses despite having five children.

¶ 30 In mitigation, defendant's father, Jerome Craft Sr., testified. He took responsibility for his son's behavior and asked the court for leniency, saying defendant had a loving home to return to when released from prison. Defense counsel then argued that the minimum sentence was appropriate because defendant was involved in his community and had a good family. He argued that the involuntary manslaughter was an accident, and defendant was remorseful for that incident and remained close with the victim's family. Defense counsel further argued that the

State's characterization of defendant not supporting his children was unfair. Defendant also entered a letter from Jaylon Arthur, a director at the Cure Violence organization.

¶ 31 In allocution, defendant expressed regret for Kimball's death and stated he had made peace with Kimball's mother. He maintained his innocence in Bell's shooting. He stated that he supported his children with money from his music career. Defendant also inquired why he was not being sentenced consistent with the State's plea offer.

¶ 32 The circuit court sentenced defendant to 16 years' imprisonment. The court stated it considered factors in aggravation and mitigation. It explained that defendant has the potential for rehabilitation due to his family and music career, but the fact that he continued to use firearms after the death of his friend indicated he did not appreciate the "value of human life and what guns can do." The court hoped defendant would learn from this experience so he could be involved with his children upon his release. Defendant filed a motion to reconsider sentence, which the court denied.

¶ 33 On appeal, defendant first contends that the evidence was insufficient to sustain his conviction for aggravated battery with a firearm because Bell's identification was unreliable, and no other evidence linked him to the crime. The State responds that the circuit court rationally found Bell's identification of defendant reliable.

¶ 34 When a defendant challenges the sufficiency of the evidence, the reviewing court considers the evidence in the light most favorable to the State to determine whether "any rational trier of fact could have found the required elements beyond a reasonable doubt." *People v. Newton*, 2018 IL 122958, ¶ 24. "This standard of review does not allow the reviewing court to substitute its judgment for that of the fact finder on questions involving the weight of the

evidence or the credibility of the witnesses.” *People v. Jackson*, 232 Ill. 2d 246, 280-81 (2009). “[I]n a bench trial, it is for the trial judge, sitting as the trier of fact, to determine the credibility of witnesses, to weigh evidence and draw reasonable inferences therefrom, and to resolve any conflicts in the evidence.” *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). The reviewing court “will not reverse a criminal conviction unless the evidence is so unreasonable, improbable, or so unsatisfactory as to justify a reasonable doubt of the defendant’s guilt.” *People v. Campbell*, 146 Ill. 2d 363, 375 (1992).

¶ 35 Relevant to this case, “[a] person commits aggravated battery when, in committing a battery, he or she knowingly *** [d]ischarges a firearm *** and causes an injury to another person.” 720 ILCS 5/12-3.05(e)(1) (West Supp. 2015). As noted, defendant contends that the evidence was insufficient to prove he was the person who discharged the firearm.

¶ 36 Identification testimony from a single witness is sufficient to convict a defendant if it is reliable. *People v. Slim*, 127 Ill. 2d 302, 307 (1989). Reliability is evaluated using the five-factor test established in *Neil v. Biggers*, 409 U.S. 188, 199 (1972). Those factors include “the opportunity of the witness to view the criminal at the time of the crime, the witness’ degree of attention, the accuracy of the witness’ prior description of the criminal, the level of certainty demonstrated by the witness at the confrontation, and the length of time between the crime and the confrontation.” *Id.* at 199-200. “No single *Biggers* factor by itself conclusively establishes the reliability of identification testimony; instead, the trier of fact must consider all the factors.” *People v. Macklin*, 2019 IL App (1st) 161165, ¶ 22.

¶ 37 We begin with Bell’s opportunity to view the shooter at the time of the crime. Defendant argues that Bell’s failure to immediately recognize the shooter weighs against reliability. Bell

saw the shooter from the time he exited the vehicle until Bell began to run. He testified that at some point during the conversation in front of his house, the shooter was standing one foot from him. Bell did not estimate the length of the interaction, but described an exchange where they discussed Bell's hair and the shooter identified himself as an individual from the September incident. Bell further described the shooter lifting his shirt to display a firearm and telling him not to run. At that point, Bell recognized the shooter as defendant.

¶ 38 This record suggests that Bell had a clear opportunity to view the shooter. An identification's strength may reflect, *inter alia*, the witness's proximity to the individual, the lighting conditions, and the length of the interaction. *People v. Corral*, 2019 IL App (1st) 171501, ¶ 77; *People v. Carlton*, 78 Ill. App. 3d 1098, 1105 (1979). Quick views of an assailant's face can be sufficient under clear conditions at close range. *Macklin*, 2019 IL App (1st) 161165, ¶¶ 24, 30 (opportunity to view offender was sufficient during robbery that lasted "seconds"). Here, Bell and the shooter were in close proximity throughout the course of a conversation. It was 7:50 a.m., and Bell had no problem seeing the shooter's face and identifying him as the defendant. Bell and the shooter were close enough and interacted for long enough for the circuit court to weigh this factor in favor of reliability.

¶ 39 Turning to Bell's degree of attention, defendant contends that Bell was not paying close attention when the shooter first approached, did not recognize the shooter until the conversation regarding the September incident, and then focused on the shooter's firearm. But the record supports a finding that Bell, in fact, paid a high degree of attention to the shooter. Bell spoke with the shooter and recognized him as someone with whom he had previously interacted. Bell did look at the shooter's firearm, but this does not establish a lack of attention to his identity.

Indeed, the fact that Bell was able to describe specific features of the firearm could rationally support that Bell paid a high level of attention during the interaction. See *People v. Middleton*, 2018 IL App (1st) 152040, ¶ 23. This factor weighs in favor of reliability.

¶ 40 Bell's level of certainty also weighs in favor of reliability. Defendant was not a stranger to Bell. Bell testified that during the September incident, he saw defendant's face clearly, in daylight, from less than 10 feet away. On October 6, 2015, Bell then recognized the person he was conversing with as defendant immediately before to the shooting. A victim's familiarity with an assailant prior to a crime weighs heavily in favor of a reliable identification. *People v. Brooks*, 187 Ill. 2d 91, 130 (1999) (prior acquaintance with an offender makes other *Biggers* factors less relevant).

¶ 41 Additionally, after the shooting, Bell made multiple positive, consistent identifications of defendant. Bell identified him as the shooter while viewing a YouTube video featuring him. Bell also identified him in a photo array and a single photo identification. Furthermore, the detectives showed Bell a photo array containing Ellzey's picture, and Bell did not identify Ellzey. Bell's consistency supports the reliability of his identification. See *People v. Tisdell*, 201 Ill. 2d 210, 215, 219-21 (2002) (eyewitness's identification of suspect in one phot array could be supported by evidence that the witness did not identify anyone in a separate array that did not include the suspect's photograph).

¶ 42 Defendant argues that Bell's certainty was influenced by suggestive procedures. He points to Bell viewing the YouTube video before the photo array of October 15, 2015 and argues that one of the photo identifications on October 31, 2015, involved a single photo, which defendant characterizes as a disfavored procedure. However, Bell was familiar with defendant

before seeing the video. Additionally, even accepting that the video could have singled out defendant in Bell's mind, the viewing of a single image prior to an identification does not render the identification unreliable when there are other indicia of reliability. In *People v. Williams*, 118 Ill. 2d 407 (1987), for example, an identification was still found to be reliable even though the witness viewed the defendant's photo identification card prior to a lineup because the victim viewed the defendant from close range under good lighting conditions at the time of the crime. *Williams*, 118 Ill. 2d at 412-15. Defendant's argument regarding the single photo identification is also belied by this principle. See *People v. Dortch*, 64 Ill. App. 3d 894, 897-99 (1978) (single photo identification reliable where witness viewed defendant for "five minutes, in close proximity, and in a well-lighted room" during crime). Here, there are many other indicia of reliability. Bell was familiar with defendant prior to October 6, 2015, and never wavered in his identification of defendant as the shooter. Bell's level of certainty favors reliability.

¶ 43 The length of time between the crime and the confrontation also favors reliability. Nine days elapsed between the shooting and the photo array identification on October 15, 2015. Similar timeframes have been found to indicate reliability in the past. See *Slim*, 127 Ill. 2d at 313 (11 days). Indeed, much longer intervals have been ruled to support reliability. See *People v. Malone*, 2012 IL App (1st) 110517, ¶ 36 (16 months before identification); *People v. Cox*, 377 Ill. App. 3d 690, 698 (2007) (2 months between incident and lineup).

¶ 44 The accuracy of Bell's description of the shooter is of limited probative value here. Almazan's stipulated testimony was that Bell described his attacker as a "male black, 20 to 25, with a black and white hooded jacket, a black baseball cap and dark pants." There is no evidence in the record confirming what defendant was wearing on October 6, 2015, making it impossible

to test the accuracy of the description. However, no single *Biggers* factor controls, and the evidence regarding the other factors is sufficient to evaluate reliability. See *Macklin*, 2019 IL App (1st) 161165, ¶ 22.

¶ 45 Finally, defendant challenges the identification on the basis that Bell was impeached multiple times, and thus his testimony should be wholly rejected as incredible. Inconsistencies in testimony are not fatal to credibility, and “it is for the fact finder to judge how flaws in part of the testimony affect the credibility of the whole.” *People v. Cunningham*, 212 Ill. 2d 274, 283 (2004). A trial court’s credibility determination is entitled to great deference, in part because it is in a better position than the reviewing court to judge a witness’s demeanor. *People v. Sorenson*, 196 Ill. 2d 425, 431 (2001).

¶ 46 First, defendant argues that Bell was impeached regarding his description of the shooter. Almazan’s stipulated testimony was that, in the hospital, two days after the shooting, Bell told him the shooter wore a black and white hooded sweatshirt, a black baseball cap, and dark pants. At trial, Bell denied giving this description, and stated that the shooter wore a black shirt and purple pants. However, Bell also testified he was on morphine during his conversation with Almazan, and the difference in the description of the clothing is not so severe as to render all of Bell’s identification testimony unreliable.

¶ 47 Second, defendant claims that Bell was also impeached regarding whether, during the September incident, the Durango’s occupants exited the vehicle and he, in turn, ran away. Defendant notes a further discrepancy as to whether Bell told Browning at the scene of the shooting that the shooter drove away in a silver or green Durango. Finally, defendant claims Bell

provided only a vague physical description of the shooter, and that Bell could have confused him with Ellzey, who according to defendant, had a similar appearance.

¶ 48 These inconsistencies are not so egregious that they warrant reversal. See *People v. Shaw*, 2015 IL App (1st) 123157, ¶¶ 20-26 (reversal was appropriate where witness's testimony was "too implausible to be deemed credible"). Discrepancies in a witness's description of an accused's clothing do not invalidate an identification. *Slim*, 127 Ill. 2d at 309. Respecting the events of October 6, 2015, Bell's trial account of the interaction in front of his house was corroborated by defendant's version of events as told to Evans. Finally, the circuit court emphasized Bell's demeanor in making its credibility determination, a conclusion it was best positioned to reach. Based on the nature of the inconsistencies in the testimony, and the circuit court's advantage in judging Bell's demeanor, we cannot find that the court's decision to credit Bell's testimony was erroneous.

¶ 49 After balancing the *Biggers* factors, we hold that the circuit court could rationally find Bell's identification reliable. This single witness identification, along with the other evidence at trial, was sufficient to establish defendant's guilt.

¶ 50 Defendant next argues that his sentence is excessive because the circuit court improperly weighed the mitigating and aggravating factors, including his rehabilitative potential. The State maintains that the circuit court appropriately weighed the relevant factors and did not err in sentencing defendant to a longer sentence than the plea offer.

¶ 51 The Illinois Constitution requires a trial court to consider rehabilitation as well as the seriousness of an offense at sentencing. Ill. Const. 1970, art. I, § 11. Sentencing decisions are reviewed for abuse of discretion and "entitled to great deference" because the trial court is better

positioned than the reviewing court to observe witnesses and judge their “credibility, demeanor, general moral character, mentality, social environment, habits, and age.” (Internal quotation marks omitted.) *People v. Alexander*, 239 Ill. 2d 205, 213 (2010). “[T]he reviewing court must not substitute its judgment for that of the trial court merely because it would have weighed the factors differently.” (Internal quotation marks omitted.) *Id.* A sentence within the statutory range only constitutes an abuse of discretion if it is “greatly at variance with the spirit and purpose of the law or manifestly disproportionate to the nature of the offense.” *People v. Fern*, 189 Ill. 2d 48, 54 (1999).

¶ 52 The trial court is presumed to have considered all mitigating factors, absent a showing to the contrary. *People v. Heider*, 231 Ill. 2d 1, 44 (2008). The seriousness of the offense is the most important factor at sentencing. *People v. Contursi*, 2019 IL App (1st) 162894, ¶ 24. The trial court is not required to give mitigating factors or rehabilitative potential greater weight than aggravating factors. *People v. Jones*, 2014 IL App (1st) 120927, ¶ 55.

¶ 53 Aggravated battery with a firearm is a Class X offense with a sentencing range of 6 to 30 years. 720 ILCS 5/12-3.05(h) (West Supp. 2015); 730 ILCS 5/5-4.5-25(a) (West 2014). Defendant’s 16-year sentence is within this range, and presumptively proper.

¶ 54 The court found defendant’s crime sufficiently serious to warrant a sentence in the middle of the statutory range. He was found guilty of shooting Bell from close range, causing injuries that required surgery and left permanent scarring. The court also cited defendant’s involuntary manslaughter conviction, and the underlying circumstances thereof. These are proper factors for a court to consider in sentencing a defendant above the statutory minimum. See

People v. Arze, 2016 IL App (1st) 131959, ¶ 120 (at sentencing, court may consider criminal record, among other factors).

¶ 55 While defendant argues that the circuit court failed to consider his rehabilitative potential, during sentencing the court stated that it considered all factors in aggravation and mitigation. It considered defendant to have rehabilitative potential because of his music career and family. The court's sentence was intended to teach defendant the consequences of his actions so that he could care for his children upon release. Nor does the record show the court assigned improper weight to his involuntary manslaughter conviction by not considering that the death at issue was accidental. Instead, the court focused on the fact that despite the accidental killing, defendant continued to use firearms. This record demonstrates that the court appropriately considered both defendant's rehabilitative potential and the circumstances of his involuntary manslaughter conviction. The trial court is not required to assign rehabilitation more weight than other proper considerations. *Jones*, 2014 IL App (1st) 120927, ¶ 55. Defendant is asking this court to substitute its judgment for that of the circuit court in balancing the factors in mitigation and aggravation, which we cannot do. *People v. Stacey*, 193 Ill. 2d 203, 209 (2000).

¶ 56 Finally, defendant argues that his sentence was excessive because before trial, the court stated it would accept the State's offer of six years at 85% in exchange for a plea of guilty to an unspecified offense not subject to a firearm enhancement. During the course of trial and sentencing, the court learned facts relevant to its sentencing decision. Nothing in the record suggests that this information was before the court when the State made its pretrial offer. As such, we will not disturb defendant's sentence on this ground.

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¶ 57 In sum, the circuit court reasonably found Bell's identification reliable and rationally based its finding of guilt on the identification. Additionally, defendant's 16-year sentence was not excessive because the court appropriately weighed the relevant factors. We therefore affirm defendant's conviction and sentence.

¶ 58 Affirmed.