Circuit Court for Prince George's County
Case No. JA-18-0179

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1110

September Term, 2018

IN RE: D.R.

Meredith,
Wells,
Gould,
JJ.

Opinion by Gould, J.

Filed: March 25, 2020

The State filed a petition for delinquency in the Circuit Court for Prince George's County, sitting as a juvenile court, against Appellant, D.R.[1] D.R. was charged with armed robbery, robbery, first-degree assault, use of a firearm in the commission of a felony or violent crime, second-degree assault, theft of property having a value between $1,500 and $25,000, and conspiracy to commit armed robbery. At his adjudication hearing, the court granted D.R.'s motion for judgment of acquittal on the firearms charge but found D.R. involved in all of the remaining charges.

D.R. contends that the juvenile court rendered inconsistent verdicts. Because we find that D.R. failed to preserve this issue by making a timely objection in the juvenile court, we affirm as to robbery and second-degree assault. We vacate the convictions for armed robbery and first-degree assault, as the State has conceded that those convictions were inconsistent.

BACKGROUND FACTS AND LEGAL PROCEEDINGS

The State's case was primarily based on the testimony of M.T., a classmate of D.R.'s. According to M.T., in September 2017, she met D.R. in a class and, about one month later, they began exchanging text messages regarding the price of shoes and clothing that M.T. was offering for sale. M.T. advised D.R. that she was willing to sell him four pairs of Jordan shoes, two pairs of "KD" shoes, a Louis Vuitton belt, a Versace belt, a True

[1] Because D.R. and the other participants here are minors, to preserve confidentiality, we refer to them solely by their initials.

Religion shirt, and an Armani Exchange shirt, for a total of $670. D.R. agreed to the purchase, and D.R. and M.T. made arrangements for the sale to take place at 4 p.m. on October 29th at M.T.'s house.

On that date, D.R. texted M.T. that "his man[] was coming to get the shoes." At approximately 5 p.m., D.R. sent M.T. a text stating that his "man" was in front of her door. M.T. did not know the individual, who was later identified as M.L. She handed him two bags containing the shoes and clothing. M.L. asked M.T. to call D.R. and she did. When M.L. asked to speak to D.R., M.T. handed him her cell phone. M.L. spoke to D.R. for about a minute and, when the conversation ended, put M.T.'s cell phone in his pocket.

M.T. testified that she asked M.L. to return her cell phone "[a]bout ten times[,]" but he did not do so. M.L. then told M.T. "to back up," lifted his shirt, and showed her a gun in the waistband of his pants. According to M.T., the gun had a wooden handle and the "pistol part was like silver." M.T. was "scared" and "ran back in" her house. M.L. ran off with M.T.'s cell phone and the bags containing the shoes and clothing.

In November 2017, M.T. reported that she observed D.R. at school wearing a pair of white, blue, and black "Jordan 10s" that M.L. had taken from her. Subsequently, M.T. identified D.R. to the police as the person who set up the robbery.[2] As a result, Department of Juvenile Services filed a petition of delinquency against D.R., and he was charged with the crimes.

[2] M.T. also viewed a photo array from which she identified M.L. as the other person involved in the robbery.

At D.R.'s adjudication hearing, defense counsel moved for judgment of acquittal at the close of the State's case on the armed robbery, robbery, and the use of a firearm in the commission of a felony or violent crime counts. The court acquitted him on the firearms charge.

D.R. did not present any witnesses in his defense and chose not to testify. At that point, defense counsel renewed the motion for judgment of acquittal, which the court denied. After hearing closing arguments, the court found D.R. involved in all of the remaining counts, stating, in part:

> As I understand it, there was no – there's no direct evidence that the Respondent was involved in a robbery or armed robbery in this case. The Court believes that – and it wasn't said specifically, but I'm assuming the defense is that the other young man essentially just went rogue, he decided to take advantage of the Respondent if he was sent there to pick up the goods and Respondent's not responsible for that.
>
> There's no way to know a hundred percent, true, but I don't believe there's any reasonable doubt. I think it's to me clear that the Respondent set up the deal, that the – that the other young man went there with the purpose of taking the goods. The other young man asked to actually call the Respondent by the civilian, which she did.
>
> Now, with regard to the (inaudible). Although there's no evidence of the armed robbery, however, I do believe that the armed robbery was made in furtherance even – of the robbery, and therefore I find the Respondent involved . . . Count I. Counts II, III, V were merged into Count I. I'm sorry. II, III, V, VI were merged into Count I. And Count VII will be involved on its own.

At his disposition hearing, D.R. was released into the custody of his grandparents under electronic monitoring and ordered to pay restitution. Following a placement review hearing, D.R. was committed to the custody of the Department of Juvenile Services.

D.R. timely appealed.

DISCUSSION

The Parties' Contentions

D.R. argues that four of the six findings of "involved" should be reversed, contending that the juvenile court entered inconsistent verdicts. Specifically, D.R. argues that: (1) the finding that he was involved in first-degree assault was legally inconsistent with the judgment of acquittal on the firearms charge; and (2) the findings that he was involved in armed robbery, robbery, and second-degree assault were factually inconsistent with the acquittal on the firearms charge.

The State contends that D.R. failed to object to the alleged inconsistent findings and therefore, with respect to each charge, he has not preserved the issue for appellate review. D.R. acknowledges his failure to object to the inconsistent findings but argues that the objecting requirement adopted by the Court in Givens v. State, 449 Md. 433, 473 (2016), does not apply in bench trials. In fact, according to D.R., an objection to inconsistent verdicts "has never been required in bench trials." In addition, D.R. claims that imposing a preservation requirement for bench trials would "conflict with Md. Rule 8-131(c), which requires this Court to review nonjury trials on 'both the law and the evidence.'" Finally, D.R. argues that the preservation requirement for inconsistent verdicts in jury trials does not apply in this case because its underlying rationale does not apply here.

Citing Givens, 449 Md. at 447-48, which set forth the requirement for objecting to inconsistent jury verdicts, the State contends that the purpose of the preservation requirement—to provide the trial court the opportunity to correct any errors—applies both to jury trials and bench trials. In addition, the State points to Travis v. State, 218 Md. App.

410, 451-52 (2014), as an example of a bench trial that applied the "iron clad preservation requirement" to an inconsistent verdict in a bench trial.

As to D.R.'s contention that the charges are inconsistent, the State agrees with D.R. that the court's finding of not involved in the count of use of a firearm in the commission of a crime of violence was legally inconsistent with the finding of his involvement in the first-degree assault.[3] As the State acknowledges, because the court's finding of first-degree assault was based on the display of a firearm,[4] the finding that D.R. was not involved in the use of a firearm was legally inconsistent with the finding that he was involved in first-degree assault with a firearm.

The State also agrees that the finding that D.R. was not involved in the use of a firearm was factually inconsistent with the finding that he was involved in the armed robbery count. The State explains that because the only dangerous weapon was in M.L.'s waistband and that D.R. was found not involved with the firearms charge, it was "illogical for the court to find that D.R. was involved with [armed robbery]."

The State disagrees with D.R. about the robbery and second-degree assault charges, arguing that the findings were not factually inconsistent. According to the State, M.T. described two assaults: one when M.L. asked her to "back up" and the second when he

[3] First-degree assault has two modalities. Md. Code Ann. Crim. Law ("CL") § 3-202(a) (2002, 2012 Repl. Vol.). First-degree assault can either be based on "intentionally caus[ing] or attempt[ing] to cause serious injury to another," or "assault with a firearm." Id.

[4] It was not based on D.R.'s intent to commit or attempt to commit serious physical injury.

lifted his shirt to display the gun. The State argues that because "[t]he trial court could have found that M.L. ordering the victim to "back up" was a threat of force for purposes of robbery, and an intent to frighten for purposes of second-degree assault," the findings were not factually inconsistent.

Analysis - Preservation of the Objection

Our preservation analysis begins with the text of Maryland Rule 8-131, which provides:

> Ordinarily, the appellate court will not decide any [issue other than jurisdiction] unless it plainly appears by the record to have been raised in or decided by the trial court, but the Court may decide such an issue if necessary or desirable to guide the trial court or to avoid the expense and delay of another appeal.

As the plain language of the rule reflects, preservation is the rule, not the exception. The requirement exists "to ensure fairness for all parties in a case and to promote the orderly administration of law." State v. Bell, 334 Md. 178, 189 (1994) (quotation omitted). "Providing fairness to the parties may be accomplished by 'requir[ing] counsel to bring the position of their client to the attention of the lower court at the trial so that the trial court can pass upon, and possibly correct any errors in the proceedings.'" Davis v. DiPino, 337 Md. 642, 648 (1995) (quotation omitted). Against this backdrop, we will begin our analysis with a brief discussion of the evolution of Maryland law of inconsistent verdicts.

Historically, under Maryland's common law, inconsistent jury verdicts were generally tolerated out of respect for "the unique characteristics of decision making by a lay jury, such as the need for compromise in arriving at a unanimous decision and the

conferral of lenity by the jury for fear that the sentencing judge will not be sufficiently lenient." In Re Antonette H., 200 Md. App. 341, 359 (2011). That changed in Price v. State, 405 Md. 10, 29 (2008), when the Court of Appeals held that when the issue is preserved, inconsistent jury verdicts would no longer be allowed.

In a concurring opinion in Price, Judge Harrell presciently emphasized that, in his view, the holding in Price applied only to legally inconsistent jury verdicts, not factually inconsistent verdicts. Id. at 35. A legally inconsistent verdict "occurs when 'an acquittal on one charge is conclusive as to an element which is necessary to and inherent in a charge on which a conviction has occurred.'" Id. at 37 (internal citation omitted). In addition, Judge Harrell suggested that procedurally, if the jury returns an inconsistent verdict, the defendant must choose before the jury is discharged whether to speak up and object—in which case the jury would be sent back to resolve the inconsistency—or do nothing and accept it, in which case the issue is waived. Id. at 40. Judge Harrell explained the rationale for the preservation requirement by describing the tactical choice facing the defendant:

> A defendant, aware of his or her guilt, or the overwhelming evidence of guilt, of all of the crimes of which he or she stands charged, may choose to accept the jury's lenity. A defendant may be wise to accept the inconsistent conviction and accompanying sentence, rather than look a gift horse in the mouth. If the defendant objects to the inconsistent verdicts, the jury, given a second chance, may choose to remedy the error in a manner not in the defendant's favor.

Id. at 40 n.9. Several months after the Court of Appeals issued its opinion in Price, Judge Moylan, speaking for this Court in Tate v. State, 182 Md. App. 114 (2008) ("Tate II"), explained the defendant's dilemma this way:

> Given a set of inconsistent verdicts, the defendant is at a distinct tactical advantage. The obvious cure for an inconsistency in verdicts would be to send the jury back to resolve the inconsistency: "Ladies and gentlemen of the jury, you can't have it both ways. Give us two acquittals or give us two convictions." The problem, of course, is that few defendants, enjoying the quite unexpected boon of an inconsistent acquittal, are willing to "roll the dice, double or nothing." Consistency for its own sake does not mean that much to them. They are prone to complain about the lack of consistency after it is no longer available, but are far from enthusiastic about pursuing consistency while it is still available.

Id. at 134.

In 2012, the Court of Appeals adopted one main "thrust" of Judge Harrell's concurring opinion in holding that only legally inconsistent jury verdicts are not tolerated, but that "illogical or factually inconsistent" jury verdicts in criminal trials are permitted. McNeal v. State, 426 Md. 455, 459 (2012). More recently, the Court of Appeals adopted the other main "thrust" of Judge Harrell's concurrence—the preservation requirement. Givens, 449 Md. at 458, 472-73. The Court concluded that "to preserve for review any issue as to allegedly inconsistent verdicts, a defendant in a criminal trial by jury must object or otherwise make known his or her position before the court discharges the jury," and explained that a timely objection provides the court an opportunity to correct the error. Id. at 472-73.[5]

[5] In the unique circumstances presented in Teixeira v. State, 213 Md. App. 664 (2013), we found that the defendant timely objected to the jury's inconsistent verdicts even though the jury had been polled, hearkened, and excused. The defendant's attorney raised the issue while the "venire remained subject to recall" and thus, we found that the objection was timely. Id. at 674.

Unlike jury trials, inconsistent verdicts in bench trials have historically not been tolerated in Maryland, and that remains true today. Travis, 218 Md. App. at 461 (in contrast to the "whirlwind roller coaster ride taken by the law of verdict inconsistency at the hands of a jury" the law on inconsistent verdicts from bench trials has "never budged"). As an exception to that general rule, inconsistent bench verdicts have been upheld only if the trial judge adequately explained any apparent inconsistency. Stuckey v. State, 141 Md. App. 143, 160 (2001) (citations omitted). This brings us to D.R.'s contention that the preservation requirement for the inconsistent verdict issue does not apply to him.

In urging us to overlook his failure to raise the issue in the trial court, D.R. advances two arguments. First, stressing the Court's use of the word "jury" in the preservation discussion in Givens, 449 Md. 433, D.R. argues that the objecting procedure first outlined by Judge Harrell—in his concurring opinion in Price and later adopted by the Court in Givens—does not apply in bench trials. In support of this proposition, in addition to Givens, D.R. relies upon Maryland Rule 8-131(c), Harrison v. State, 382 Md. 477 (2004), Stuckey, 141 Md. App. 143, and In re Antonette H., 200 Md. App. 341.

Second, D.R. contends that Givens does not apply here because the juvenile court had "*already rendered its final decision* on the use of a firearm charge by granting the motion for judgment of acquittal." As such, D.R. argues that the juvenile court could not have changed its finding on that charge from not involved to involved, and therefore, he did not enjoy any windfall by not objecting. D.R. misses the mark with both arguments.

D.R.'s reliance on Harrison is unavailing because the issue there was not inconsistent verdicts, but rather the failure to challenge the sufficiency of the evidence. 382 Md. at 480. According to the Court, "no particularized motion [for acquittal] was necessary" because an appellate court must always consider the sufficiency of the evidence in a bench trial. Id. at 487 n.12.[6] We have not found, and D.R. has not directed our attention to, any case that applied Harrison to the preservation issue regarding inconsistent verdicts.

D.R.'s reliance on In re Antonette H. is equally unavailing. Although we did state that "[n]either the majority opinion nor the concurrence [in Price] had any bearing on non-jury trials," 200 Md. App. at 361, that general observation neither ends the analysis nor compels the conclusion that preservation of an objection is not required in bench trials. Rather, it just states a fact: Price applied to jury trials, not bench trials.

D.R.'s reliance on Maryland Rule 8-131(c)[7] is also misplaced. As we explained in Travis, this rule "neither expressly nor implicitly provides an exception to our general preservation rules or the contemporaneous objection rule." 218 Md. App. at 472 (quoting Bryant v. State, 436 Md. 653, 668-69 (2014)).

[6] The rationale behind that rule is to "prevent[] a miscarriage of justice by permitting the determination of one judge to take away the life or liberty of an accused without a review by any other tribunal." Ennis v. State, 306 Md. 579, 595 (1986) (quotation omitted).

[7] Maryland Rule 8-131(c) provides:

> When an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.

D.R. also relies upon Stuckey, 141 Md. App. 143, where, according to D.R., "this Court reversed appellant's convictions for inconsistency after a bench trial even though that theory was not 'presented below.'" Pointing to a quote from another case that we included in footnote 3 of our opinion in Stuckey, D.R. offers Stuckey as support for the notion that "when real prejudice is shown, we will review on appeal an argument that verdicts were fatally inconsistent even if the defendant failed to make the argument below." Stuckey is unavailing to D.R. for at least four reasons.

First, we rejected the State's preservation argument in Stuckey based on the specific procedural posture of the case. We noted that the trial court decided the various counts in one discussion, and there was no opportunity for defense counsel to make the inconsistent verdict argument in between the trial judge's not guilty verdict for one count and the subsequent guilty verdicts for the other counts. Stuckey, 141 Md. App. at 165. We stated:

> Given the posture of the case and the circumstances extant, appellant's trial counsel could not have afforded the court the opportunity to cure its error in finding appellant guilty of manslaughter.

Id. at 172. Here, however, the trial court acquitted D.R. of the firearms charge on his motion for judgment of acquittal when the State rested but made the involved findings after all evidence had been presented and after closing arguments. D.R. therefore had ample opportunity to raise the objection in between the acquittal on the one count and the involved findings on the other counts.

Second, D.R. also could have raised the issue with the trial court after the trial court rendered its involved findings. Stuckey does not provide otherwise, as the only

preservation argument addressed by the Court was the State's contention that the issue should have been raised before the trial court announced its guilty verdicts. 141 Md. App. at 160, 164-65.

Third, D.R. misapplied the words he found in footnote 3 in Stuckey. As stated above, D.R. relies upon this quote from Stuckey: "when real prejudice is shown, we will review on appeal an argument that verdicts were fatally inconsistent even if the defendant failed to make the argument below." In its entirety, however, footnote 3 states:

> In a recent decision issued by this Court discussing inconsistent verdicts in the context of a jury trial, we said:
>
> > The State suggests that defense counsel's failure to object to the court's instructions or to request an instruction on consistent verdicts precludes Beharry from complaining on appeal about the inconsistent verdicts. *See* Md. Rule 4-325(e). We do not agree. As we explained in *Jenkins v. State*, 59 Md. App. 612, 620-21, 477 A.2d 791 (1984), *modified on other grounds*, 307 Md. 501, 515 A.2d 465 (1986) (regarding whether guilty verdicts of assault with intent to murder and assault with intent to maim were inconsistent):
> >
> > Ordinarily, a defendant's failure to make a timely objection to the court's instructions, or to its omission to give an instruction, precludes appellate review of any error relating to the instructions. . . . Where the error arises from the rendition of inconsistent verdicts, however, although it could have been avoided by appropriate instruction, it extends beyond the matter of instructions.
> >
> > . . .
> >
> > We further explained in *Jenkins* that, *when real prejudice is shown, we will review on appeal an argument that verdicts were fatally inconsistent even if the defendant failed to make the argument below.*
> > . . .
>
> *Bates and Beharry v. State*, 127 Md. App. 678, 699-700, 736 A.2d 407 (1999) (emphasis added).

141 Md. App. at 157 n.3. On a superficial level, the allure of footnote 3 to D.R. is understandable because it seemingly supports the idea that objections based on inconsistent verdicts are not mandatory. However, D.R.'s quote from Stuckey was taken from Bates and Beharry v. State, 127 Md. App. 678, and we *expressly overruled* that part of Bates in Tate v. State, 176 Md. App. 365, 405-07 (2007) ("Tate I"), remanded for reconsideration in light of Price, 405 Md. 10, but reaffirmed by Tate II, 182 Md. App. 114. Specifically, in Tate I, we said, "[t]o the extent to which [Bates] exempts inconsistent verdict cases from the standard preservation requirements, however, it is hereby expressly overruled." 176 Md. App. at 407.

Further, in Tate I, we explained that the "real prejudice" quote that D.R. cited originally came from our decision in Jenkins v. State, 59 Md. App. 612 (1984), where there was an inconsistency between convictions, not an inconsistency between a conviction and acquittal. Tate I, 176 Md. App. at 405-07. More importantly, we explained that the phrase "real prejudice" in that context referred only to an excessive sentence following an inconsistent verdict, and "we were clear that our entitlement to overlook non-preservation was only by way of the discretionary and permissive prerogative of noticing 'plain error.'" Id. at 406. Put simply then, what D.R. cites as support for his assertion that he was not required to raise the issue in the trial court instead supports only the notion that we can review the failure to preserve the objection under the plain error exception. In other words, as stated above, preservation is the rule, not the exception.

Finally, to the extent Stuckey could nonetheless be read as holding that a defendant is not required to preserve the inconsistent verdict objection in a bench trial, we dispelled that notion in another case involving arguably inconsistent verdicts in a bench trial, Travis, 218 Md. App. 410. In Travis, the defendant did not object to the inconsistent verdicts rendered at the end of the trial, but instead asked to proceed to sentencing which, as we pointed out, is not the same as "lodg[ing] an objection to inconsistent verdicts." Id. at 469. We then rejected the defendant's double jeopardy argument, stating that "[t]he easy answer . . . is that no objection was made and the point is not preserved for appellate review." Id. at 471. And, we declined the defendant's invitation to notice plain error to circumvent the preservation requirement. Id. at 472.

D.R. insists that our preservation discussion in Travis was mere dicta, and that Travis does not "*hold* that a defendant must object to inconsistent verdicts in a bench trial to preserve the issue for appellate review, which has never been required in Maryland." (emphasis added). However, by stating that the preservation requirement for inconsistent verdicts in bench trials "has never been required in Maryland," D.R. again confuses the exception with the rule. Nor will we dismiss Travis so easily, if for no other reason than the Court of Appeals in Givens apparently saw more than just dicta in our preservation analysis:

> The Court of Special Appeals has applied Part C of Judge Harrell's concurring opinion in Price not only to jury trials, but also to at least one bench trial. Specifically, in Travis, 218 Md. App. at 468–69, 98 A.3d at 315, the Court of Special Appeals indicated that a defendant waived an issue as to allegedly inconsistent verdicts by failing to timely object after a trial court stated the verdicts at the conclusion of a bench trial. After the trial court

> stated the verdicts, the trial court asked whether a presentence investigation was necessary; the prosecutor stated that the prosecutor was unsure; and the defendant's counsel stated: "I would ask the court to proceed to sentencing." Id. at 469, 98 A.3d at 315 (emphasis omitted). The Court of Special Appeals observed: "To ask the [trial] court to proceed to sentencing is not to lodge an objection to [allegedly] inconsistent verdicts." Id. at 469, 98 A.3d at 315. Although the Court of Special Appeals "h[e]ld that there was no fatal inconsistency between the convictions and the acquittal[,]" that Court went on to state: "Simply as a cautionary back-up position, we note that the [defendant] was either blissfully unaware of any inconsistency in [the] verdicts as they were announced[,] or was content to enjoy his windfall of an acquittal." Id. at 468, 98 A.3d at 315.

Givens, 449 Md. at 463.

D.R. further argues that the rationale for the preservation requirement does not apply in his case because he never stood to benefit from the potential windfall that animated Judge Harrell's preservation discussion in Price. As discussed above, a timely objection to a jury's inconsistent verdicts would put both the guilty and not guilty verdicts back in play, thereby exposing the defendant to the risk that the jury could resolve the inconsistency changing its verdict from not guilty to guilty on one or more counts. In contrast, D.R. argues that here the trial court's acquittal on the firearms charge could not have been reversed, even if moments later the judge had a change of heart. Thus, unlike in a jury trial where a defendant could reap a windfall by remaining silent in the face of inconsistent jury verdicts, no such windfall was available to D.R. As such, the underlying rationale for requiring timely objections to inconsistent jury verdicts does not, according to D.R., apply to him.

D.R.'s argument overlooks the broader purpose served by the preservation rule, which is to "permit the judge to clarify what can readily be clarified if he is given the

opportunity to do so." Chisum v. State, 227 Md. App. 118, 140 (2016). Unlike the defendant in Stuckey, D.R. had ample opportunity to argue that double jeopardy principles compelled a not involved finding on the charges of the first-degree assault, armed robbery, robbery, and second-degree assault. For example, D.R. could have advanced such arguments before or during closing arguments, and he also could have objected to the inconsistent verdicts immediately after the court delivered its decision. By failing to do so, D.R. denied the court the opportunity to agree with him and correct the error or to disagree with him and explain why the verdicts were not inconsistent, which it was not otherwise required to do. See Md. Rule 4-328 (a "court sitting without a jury shall render a verdict upon the facts and the law" is not required to "state the grounds for its decision either in open court or by written memorandum"); see also Chisum, 227 Md. App. at 140 ("[h]ad defense counsel raised the question, the judge would have made it clear within 20 seconds").

Thus, notwithstanding D.R.'s insistence to the contrary, excusing his failure to preserve his objection could create a potential windfall for him. As we noted in Stuckey, "[w]hen a trial judge, on the record, explains an apparent inconsistency in the verdicts and, in doing so, demonstrates that the court's action was proper and that there was no unfairness, the verdicts will be sustained." 141 Md. App. at 160. Thus, if we waive the preservation requirement here, we would provide D.R. with the opportunity to have his findings of involvement vacated even though a timely objection potentially could have allowed the court to satisfactorily explain the perceived inconsistencies.

Recognizing this potential windfall, we are guided by the presumption that the court both knows and follows the law. Aventis Pasteur, Inc. v. Skevofilax, 396 Md. 405, 426 (2007) (quotation omitted); Beales v. State, 329 Md. 263, 273 (1993) (there is a "strong presumption that judges properly perform their duties"; therefore, "trial judges are not obligated to spell out in words every thought and step of logic"). Here, as to the charges of robbery and second-degree assault, the State advanced a colorable basis on which the perceived inconsistencies could potentially be reconciled. Because this possibility exists, we will not abandon the presumption that the trial court correctly applied the law and would have been able, if given the opportunity, to satisfactorily explain the apparent inconsistencies in its verdicts. Accordingly, as it relates to the involved findings for robbery and second-degree assault, we decline to exercise our discretion to review D.R.'s claim of inconsistent verdicts. See Chisum, 227 Md. App. at 139 (declining to overlook an unpreserved objection, finding that "[t]his issue is one of sheer appellate opportunism").

That having been said, the State has conceded that the court's findings that D.R. was involved with first-degree assault and armed robbery are inconsistent, and we agree. We therefore exercise our discretion under the plain error doctrine and vacate those two convictions.

COUNT I (ARMED ROBBERY) AND COUNT III (FIRST-DEGREE ASSAULT) REVERSED; JUDGMENTS OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED IN ALL OTHER RESPECTS; COSTS TO BE SPLIT EQUALLY.