ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOHN MAUZY PITTMAN, CHIEF JUDGE

DIVISION III

CACR07-191

November 7, 2007

RODERICK M. BRADFORD APPELLANT	APPEAL FROM THE ARKANSAS COUNTY CIRCUIT COURT, NORTHERN DISTRICT [NO. CR-2005-80]
V.	HON. DAVID G. HENRY, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

The appellant, Roderick M. Bradford, was charged with possession of cocaine with intent to deliver, possession of drug paraphernalia, and unauthorized use of another's property to facilitate a crime. All of the charges were tried in a single trial. The jury acquitted appellant of possession of cocaine with intent to deliver and possession of drug paraphernalia, and convicted him of unauthorized use of another's property to facilitate a crime. On appeal, appellant argues that the evidence was insufficient to support his conviction and that the trial court erred in permitting a police officer to testify that a confidential informant made a controlled drug buy from appellant's residence. We affirm.

Arkansas's Criminal Gang, Organization, or Enterprise Act provides in part that a person commits the offense of unauthorized use of another person's property to facilitate a crime when he knowingly uses the property of another person to facilitate in any way the

violation of a predicate criminal offense without the owner's knowledge. Ark. Code Ann. § 5-74-105(a)(1) (Repl. 2005). A "predicate criminal offense" means any violation of Arkansas law that is a crime of violence or pecuniary gain. Ark. Code Ann. § 5-74-103(4) (Repl. 2005).

There was evidence at trial that appellant lived in a rental house with his brother Donald. After a confidential informant performed a controlled buy of cocaine from the rental house, police obtained a search warrant. While conducting the search, police found that a security camera monitored the only approach to the residence. Donald had a quantity of cocaine and over $5000 in cash on his person. Another man in the house had a bag of marijuana in his possession. No drugs were found on appellant's person, but he did have over $1000 in cash, including two $500 bundles secured by rubber bands. In addition, a digital scale was found adjacent to appellant's identification card on the bar. Appellant admitted that he lived in the house with his brother. Walter Kibble, the owner of the rental house, testified that he did not know about and would not have permitted any drug-related activity at the house.

Appellant argues that, because the jury acquitted him of the charges of possession of cocaine with intent to deliver and possession of drug paraphernalia, there was no "predicate criminal offense" to support his conviction for unauthorized use of another's property to facilitate a crime. The essence of his argument is that his conviction must be reversed because the jury's verdicts were inconsistent. We find no error.

First, it is uncertain that appellant's argument, which was never presented to the trial

court, is properly before us. In considering a similar issue regarding inconsistent verdicts in *Meadows v. State*, 360 Ark. 5, 199 S.W.3d 634 (2004), our supreme court raised but did not decide the question of whether an objection at trial was necessary to preserve the argument for appellate review. In any event, as was the case in *Meadows*, *supra*, appellant's argument is without merit.

A jury verdict need not be consistent. It may convict on some counts but not on others, and may convict in different degrees on some counts because of compassion or compromise, and not solely because there was insufficient evidence of guilt. *Jordan v. State*, 323 Ark. 628, 917 S.W.2d 164 (1996). The appellant in *United States v. Powell*, 469 U.S. 57 (1984), had been convicted of soliciting a conspiracy by telephone to possess and to distribute cocaine but was acquitted of the lesser-included offense of conspiracy to possess and to distribute cocaine. She attacked her conviction for the telephone solicitation counts, arguing that she had been acquitted of one of the elements of that offense because the verdicts were inconsistent. The Supreme Court disagreed and held that inconsistent verdicts were permissible in the same trial where there is a conviction on the compound offense but acquittal on the predicate offense.

> The law is clear that a defendant may not attack his conviction on one count because it is inconsistent with an acquittal on another count. Res judicata concepts are not applicable to inconsistent verdicts; the jury is free to exercise its historic power of lenity if it believes that a conviction on one count would provide sufficient punishment.

McVay v. State, 312 Ark. 73, 77, 847 S.W.2d 28, 30 (1993) (quoting *United States v. Romano*, 879 F.2d 1056 (2d Cir. 1989) (citations omitted)). Here, as in *Powell*, *supra*,

appellant's acquittal on the predicate offenses of possession of contraband does not invalidate his conviction on the compound offense of unauthorized use of another's property to facilitate a crime.

Appellant next argues that the trial court erred in permitting a police officer to testify regarding the activities of a confidential informant because to do so would deprive appellant of his right to confront and cross-examine the confidential informant. This issue was not raised at trial. A party is bound by the scope and nature of the arguments made at trial and cannot change grounds for an objection or argument on appeal. *Linn v. State*, 84 Ark. App. 141, 133 S.W.3d 407 (2003). Appellant's objection at trial was squarely and solely based on his assertion that the police officer's testimony was hearsay. A hearsay objection is not sufficient to preserve a Confrontation Clause argument for appeal. *Gatlin v. State*, 320 Ark. 120, 895 S.W.2d 526 (1995); *Killcrease v. State*, 310 Ark. 392, 836 S.W.2d 380 (1992). An argument not made at trial is not preserved for appellate review. *Linn v. State*, *supra.*

Affirmed.

GRIFFEN and MARSHALL, JJ., agree.