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**IN THE  
COURT OF APPEALS OF INDIANA**

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JEREMY J. FARRIS, )  
 )  
Appellant-Defendant, )  
 )  
vs. ) No. 67A01-0601-CR-19  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

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APPEAL FROM THE PUTNAM CIRCUIT COURT  
The Honorable Diana J. LaViolette, Judge  
Cause No. 67C01-0411-FA-120

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**December 21, 2006**

**MEMORANDUM OPINION-ON REHEARING**

**BAKER, Judge**

Appellant-defendant Jeremy Farris has filed a petition for rehearing requesting that we reconsider the decision reached in our original unpublished memorandum in Farris v. State, No. 67A01-0601-CR-00019 (Ind. Ct. App. August 15, 2006). Specifically, Farris challenges our determination that the evidence was sufficient to support his conviction for Dealing in Methamphetamine,<sup>1</sup> a class B felony.

On rehearing, Farris makes the point that we erroneously relied on Shawn Rich's testimony "that [Rich] had previously purchased a quantity of methamphetamine from Farris and smoked some of it with the others," tr. p. 201, as evidence in support of our decision to affirm that conviction. While we agree that this court should not have considered Rich's testimony on appeal because the trial court had subsequently ordered it stricken from the record, we nonetheless affirm Farris's conviction for dealing in methamphetamine in light of the inferences that could be drawn from the remaining circumstantial evidence in this case. See Davis v. State, 791 N.E.2d 266, 270 (Ind. Ct. App. 2003) (observing that intent to deliver is established by considering the behavior of the relevant actor, the surrounding circumstances, and the reasonable inferences to be drawn from them).

Specifically, we observed that Buttery testified that he sold Farris seven grams of methamphetamine on November 2, 2004. Slip op. at 3, 13. Following Farris's arrest two days later, the police recovered only 2.7 grams of methamphetamine from the residence. Id. at 5. It was established that frequent drug trafficking and activity occurred at Farris's residence, and when Farris was arrested, other drug paraphernalia was recovered from the

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<sup>1</sup> Ind. Code § 35-48-4-1.

house including some scales that could be used to weigh methamphetamine and other controlled substances. Id.

Although Farris has offered alternate explanations for each item of circumstantial evidence, it is apparent that he is inviting us to reweigh the evidence—an invitation that we decline. As a result, we refuse to reverse Farris’s conviction for dealing in methamphetamine on the basis of insufficient evidence. We thus grant Farris’s petition for rehearing but reaffirm our original decision, subject to the above comments.

VAIDIK, J., and CRONE, J., concur.