Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEYS FOR APPELLANT:

GREGORY F. ZOELLER
Attorney General of Indiana

CYNTHIA L. PLOUGHE
Deputy Attorney General
Indianapolis, Indiana

ATTORNEY FOR APPELLEE:

PATRICIA CARESS MCMATH
Marion County Public Defender

FILED
May 16 2011, 9:50 am
CLERK
of the supreme court, court of appeals and tax court

IN THE
COURT OF APPEALS OF INDIANA

STATE OF INDIANA,	)	
	)	
Appellant-Plaintiff,	)	
	)	
vs.	)	No. 49A05-1010-CR-698
	)	
DANNY LEFLORE,	)	
	)	
Appellee-Defendant.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Clark H. Rogers, Judge
Cause No. 49G17-1006-FD-47677

May 16, 2011

OPINION ON REHEARING - NOT FOR PUBLICATION

FRIEDLANDER, Judge

LeFlore has filed a Petition for Rehearing asserting that this Court erroneously remanded the case to the trial court to hold a hearing because the charges against him have been dismissed.[1] LeFlore is correct. After the trial court denied the State's request to use out-of-court statements of the excluded witnesses and the State's subsequent Motion to Correct Error, the trial court dismissed the charges against LeFlore on the State's motion. Because the charges against LeFlore had been dismissed, it was error for this Court to remand to the trial court for a hearing. At this time, there is nothing pending before the trial court. Subject to this clarification, we affirm our opinion in all other aspects.

MAY, J., and MATHIAS, J., concur.

[1] LeFlore does not challenge the decision of this Court in reversing the trial court's ruling.