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**IN THE  
COURT OF APPEALS OF INDIANA**

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TIMOTHY GUMME, )  
 )  
Appellant-Defendant, )  
 )  
vs. ) No. 49A02-0610-CR-881  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Michael Jensen, Judge  
Cause No. 49G20-0511-FA-200138

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**July 13, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**FRIEDLANDER, Judge**

Timothy Gumme alleges he was improperly convicted of Possession of Cocaine,<sup>1</sup> a class C felony, in violation of the Indiana Constitution's prohibition against double jeopardy.<sup>2</sup>

We affirm.

In the early morning hours of November 19, 2005, Gumme was arrested for public intoxication outside of a bar in Indianapolis. In a search incident to arrest, the arresting officer found over nine grams of cocaine packaged in twenty-four individual baggies and \$410 on his person.

Gumme was subsequently charged with three counts: Count I, dealing in cocaine as a class A felony; Count II, possession of cocaine, a class C felony; and, Count III, public intoxication, a class B misdemeanor. At the conclusion of the bench trial, on August 31, 2006, the trial court found Gumme guilty on Count I of a lesser-included offense, dealing as a class B felony. The court also found Gumme guilty as charged on Counts II and III. The court, however, only entered judgments of conviction on Counts I and III. At the sentencing hearing, the court specifically noted that it did not enter judgment of conviction on Count II because that count involved the same cocaine as Count I. The court then sentenced Gumme to concurrent sentences of 6 years in prison on Count I and 180 days on Count III.

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<sup>1</sup> Ind. Code Ann. § 35-48-4-6 (West, PREMISE 2006 2<sup>nd</sup> Regular Sess.).

<sup>2</sup> Under article 1, § 14 of the Indiana Constitution, a person may not be put in jeopardy twice for the same offense.

Gumme's sole argument on appeal is that he was improperly convicted of dealing (Count I) and possessing (Count II) the same cocaine. To be sure, a conviction for both could not stand. *See Hardister v. State*, 849 N.E.2d 563 (Ind. 2006). In this case, however, it is clear that a conviction was not entered on Count II for possession of cocaine. Accordingly, there is no merit to Gumme's appeal.

Judgment affirmed.

BAKER, C.J., and CRONE, J., concur.