

United States Court of Appeals,

Eleventh Circuit.

No. 95-8120.

UNITED STATES of America, Plaintiff-Appellee,

v.

Harry Leon SMITH, III, Defendant-Appellant.

April 24, 1997.

Appeal from the United States District Court for the Northern District of Georgia (No. 1:94-CR-149); Richard C. Freeman, Judge.

(Opinion December 5, 1996, 11th Cir., 1996, 106 F.3d 350).

Before HATCHETT, Chief Judge, and TJOFLAT, ANDERSON, EDMONDSON, COX, BIRCH, DUBINA, BLACK, CARNES and BARKETT, Circuit Judges.*

BY THE COURT:

A member of this court in active service having requested a poll on whether this case should be reheard by the Court sitting en banc, and a majority of the judges in this court in active service having voted in favor of granting a rehearing en banc,

IT IS ORDERED that the above cause shall be reheard by this court en banc. The previous panel's opinion is hereby VACATED.

*Senior U.S. Circuit Judge James C. Hill may participate in further proceedings in this matter pursuant to 28 U.S.C. § 46(c).