

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 95-8120

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

versus

HARRY LEON SMITH, III,

Defendant-Appellant.

Appeal from the United States District Court for the
Northern District of Georgia

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

(April 24, 1997)

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

B Y T H E C O U R T :

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 has elected to participate in further proceedings in this matter pursuant to 28 U.S.C. § 46(c).