

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 06-2281

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United States of America,

Appellee,

v.

Demario A. Howard,

Appellant.

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Appeal from the United States  
District Court for the  
Eastern District of Arkansas.

[UNPUBLISHED]

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Submitted: October 17, 2006  
Filed: October 31, 2006

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Before MELLOY, BEAM, and BENTON Circuit Judges.

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PER CURIAM.

Demario Antoinette Howard appeals the denial of his motion for correction of sentence. The United States agrees that plain error occurred because the judge's oral pronouncement of sentence is not the sentence imposed in fact, and thus supports Howard's appeal. *See Hill v. United States ex rel. Wampler*, 298 U.S. 460, 464-65 (1936); *United States v. Tramp*, 30 F.3d 1035, 1037 (8th Cir. 1994).

This court reverses and remands for sentencing consistent with the alternative sentence ordered by the district court in the event that the federal sentencing

guidelines were unconstitutional or partially unconstitutional. *See United States v. Booker*, 543 U.S. 220 (2005); 8th Cir. R. 47A.

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