

ALITO, J., dissenting

SUPREME COURT OF THE UNITED STATES

No. 06–6330

DERRICK KIMBROUGH, PETITIONER *v.*
UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT

[December 10, 2007]

JUSTICE ALITO, dissenting.

For the reasons explained in my dissent in *Gall v. United States*, *ante*, p. ____, I would hold that, under the remedial decision in *United States v. Booker*, 543 U. S. 220, 258–265 (2005), a district judge is still required to give significant weight to the policy decisions embodied in the Guidelines. The *Booker* remedial decision, however, does not permit a court of appeals to treat the Guidelines’ policy decisions as binding. I would not draw a distinction between the Guideline at issue here and other Guidelines. Accordingly, I would vacate the decision of the Court of Appeals and remand for reconsideration.