

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT
BYRON WHITE UNITED STATES COURTHOUSE
1823 STOUT STREET
DENVER, COLORADO 80257

RECEIVED
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03-AP-010

DAVID M. EBEL
JUDGE

October 9, 2003

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Peter G. McCabe, Secretary
Committee on Rules of Practice and Procedure
of the Judicial Conference of the United States
Thurgood Marshall Federal Judiciary Building
Washington, DC 20544

Re: Proposed Rule 32.1 of the Federal Rules of Appellate Procedure

Dear Mr. McCabe:

I have no problem with proposed Rule 32.1 to the Federal Rules of Appellate Procedure, which allows citation to unpublished judicial dispositions. That rule will require only modest modifications in the practices within the Tenth Circuit Court of Appeals, and I believe proposed new Rule 32.1 is helpful.

I write primarily from a prophylactic point of view to state that I would be very opposed to any amendment in the future that might require unpublished dispositions to carry precedential weight. In my judgment, there is no legal basis for such a requirement, and it would create havoc among the circuit courts. Although I know that proposal is not presently on the agenda, I simply want to go on record now as stating that I would vigorously oppose any effort to expand the rules to require that unpublished dispositions carry precedential weight.

Very truly yours,



David M. Ebel

DME/hc