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Peter G. McCabe, Secretary
Committee on Rules of Practice and Procedure
Administrative Office of the U.S. Courts
One Columbus Circle, N.E.
Washington, D.C. 20544



03-AP-344

Dear Secretary McCabe:

I am writing to express my opposition to proposed Federal Rule of Appellate Procedure 32.1. I believe that if the rule goes into effect, the appellate courts will react by issuing more orders that simply affirm without opinion. This outcome will undermine confidence in the judicial system because people who believe they have been wronged want to hear why a judge disagrees with them. Increasing AWOPs will increase cynicism and a distrust of the system. Unpublished opinions, on the other hand, provide individualized explanation to litigants without consuming the judicial resources that would be needed to assess the precedential effect of a published opinion.

We have enough published law available for our system to work. In the end, you will not be adding to the body of available case law by permitting citation to unpublished decisions, you will instead encourage judges to eliminate certain opinions altogether. I urge you to avoid this unintended consequence.

Sincerely,

Lisa Hay
Assistant Federal Public Defender