

# FEDERAL DEFENDERS OF EASTERN WASHINGTON AND IDAHO

**ROGER J. PEVEN**  
EXECUTIVE DIRECTOR

**SPOKANE OFFICE**  
10 NORTH POST, SUITE 700  
SPOKANE, WASHINGTON 99201  
(509) 624-7686  
FAX (509) 747-3539

**STEPHEN R. HORMEL**  
CHIEF TRIAL ATTORNEY

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03-AP-388

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

**SENT BY FACSIMILE**

**Re: Proposed Rule of Appellate Procedure 32.1**

Dear Mr. McCabe:

This letter is written in opposition to Proposed Rule of Appellate Procedure 32.1. I am currently the Chief Trial Attorney for the Federal Defenders of Eastern Washington and Idaho. I have practiced law in Washington State since June of 1989. This practice has included appellate work in both state and federal courts.

It has been my experience that unpublished opinions contain no precedential value. Thus, the ability to cite to unpublished opinions would lead to confusion and would have a tendency to mislead the appellate court. Unpublished opinions typically do not contain all controlling facts. Nor do they contain great detailed analysis of the law. They are written to the parties who are familiar with particulars of the case. Unpublished opinions are not written for the purpose of guiding non-parties or a panel from the appellate court through a maze of facts and law in order to provide guidance in future cases. Unpublished opinions are simply unusable.

Since beginning my practice, I have experienced greater delays in receiving appellate decisions. Sometimes an appellate decision will release a person from incarceration who should not have had his/her freedom taken away. The ability to use a great body of unpublished opinions would likely cause even greater delays in obtaining decisions. Thus, a continued loss of freedom for some individual could be the unintended result of the proposed rule if it were passed.

I have read many letters and other material in opposition to the proposed rule. I concur whole heartedly with those opinions expressed.

Sincerely,

  
Stephen R. Hormel  
Chief Trial Attorney

**YAKIMA BRANCH**  
306 East Chestnut Avenue  
Yakima, Washington 98901  
(509) 248-8920  
Fax (509) 248-9118

**BOISE BRANCH**  
350 North 9th Street, Suite 301  
Boise, Idaho 83702  
(208) 388-1600  
Fax (208) 388-1757

**MOSCOW BRANCH**  
201 North Main Street  
Moscow, Idaho 83843  
(208) 883-0180  
Fax (208) 883-1472

**POCATELLO BRANCH**  
801 East Sherman, Suite 177  
Pocatello, Idaho 83201  
(208) 478-4155  
Fax (208) 478-1255