

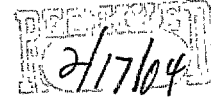


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Our File Number 41215-00008

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Via Fax (202-502-1755) and First Class Mail

03-AP-416

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

Re: Proposed FRAP 32.1

Dear Mr. McCabe:

I write to express my opposition to proposed FRAP 32.1, which would adopt a nationwide rule allowing the citation of unpublished decisions in appellate briefs.

My views reflect my twenty years' experience handling appellate cases. Currently, I oversee the appellate practice at my firm; from 1999-2001 I served as Arizona's Solicitor General. Before joining state government, I served as a Deputy Assistant Attorney General for the Office of Policy Development at the U.S. Department of Justice and as an assistant U.S. Attorney for the District of Arizona. I also have served since 2001 as a member of the Ninth Circuit's Advisory Committee on Appellate Rules and Internal Operating Procedures. This letter, of course, expresses only my individual opinion and is not a statement by any entity.

Requiring every Circuit to allow citation of unpublished decisions would, I believe, impair the ability of courts – such as the Ninth Circuit – to deal with the huge increase in caseloads. Proposed Rule 32.1 would delay the issuance of decisions, reduce the amount of judicial time available for the more difficult and novel cases, and likely result in more, not fewer, summary dispositions.

For these reasons, I respectfully urge the Committee to oppose proposed Rule 32.1.

Very truly yours,

A handwritten signature in cursive script that reads 'Scott Bales'.

Scott Bales