



UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA  
Sandra Day O'Connor U.S. Courthouse  
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401 W. Washington Street, SPC 12  
Phoenix, AZ 85003-2120

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03-AP-136

Chambers of  
Virginia A. Mathis  
United States Magistrate Judge

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January 20, 2004

The Honorable Samuel A. Alito, Jr.  
United States Court of Appeals  
for the Third Circuit  
357 United States Courthouse  
Post Office Box 999  
Newark, NJ 07101-0999

Re: Proposed FRAP 32.1

Dear Judge Alito:

I write to express my opposition to proposed FRAP 32.1. I agree with many of the comments already written in opposition to FRAP 32.1. However, I have a couple of concerns I wish to emphasize.

I have many small cases where at least one of the parties is litigating on a very limited budget. I also handle pretrial matters in lawsuits filed pursuant to 42 U.S.C. 1983 and petitions filed under 28 U.S.C. 2241, 2254 and 2255. The great majority of these cases involve plaintiffs and petitioners who are indigent and incarcerated. These litigants have very limited resources and certainly do not have access to computer research. These parties are already at a great disadvantage. FRAP 32.1 will create a body of law which may not be accessible to these litigants.

It has been my experience that more and more litigants, represented and unrepresented, do not find and cite important published decisions. This is true even when there are published decisions on point. Unfortunately, I frequently encounter litigants who do not have the resources, skill or inclination to find and cite the controlling law. Proposed FRAP 32.1 will necessarily increase the body of case law that must be researched. As a result, it may well exacerbate this problem by encouraging parties/attorneys to spend countless hours reviewing and citing unpublished opinions while missing important published cases.

The Honorable Samuel A. Alito, Jr.


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January 20, 2004

In sum, my concern is that FRAP 32.1 will increase litigation costs, complicate legal research and create a disadvantage for pro se and indigent litigants without any offsetting benefit.

Thank you for the opportunity to comment on proposed FRAP 32.1.

Sincerely,



Virginia A. Mathis  
United States Magistrate Judge