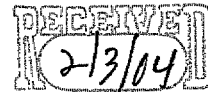


03-AP-238



Nobody
<nobody@uschgov.ao.
dcn>

To: Rules_Support@ao.uscourts.gov
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02/03/2004 12:40 AM

Salutation: Mr;
First: Nom
MI: D.
Last: Plume
Org:
MailingAddress1: Sorry but I practice before the 9th Circuit
MailingAddress2:
City:
State: default
ZIP:
EmailAddress:
Phone:
Fax:
Appellate: Yes
Comments:

Wouldn't a more specific legend than Not For
Publication be adequate to address Judge Kozinski's concerns
and eliminate the need for a no-citation rule?

I
have taken the liberty to draft a legend that tracks
the concerns the judge has expressed to this
committee:

To the Litigants:

The UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT thanks you for submitting
your case to its judges for resolution. We recognize
that in trusting your conflicts to us rather than going
to gun stores, you expect three judges, all more
experienced and/or wiser than the trial judge to each
personally review your case and to reach a decision warranted
to be according to law because the decision itself
becomes a part of the law and may be cited as law
affecting others. We recognize that this issue may greatly
impact your life, property or community and that you may
have spent your life savings bringing this issue to us.

We assure you, and the community around you, that
three judges have dealt with the case with the utmost
care.

Attention Lawyers and Others Reading This Case:

In order that those who at some time in the future
may wish to regard this decision as including accurate
statements of law, or logical legal reasoning, please note
that the three judges signing the opinion likely came
into contact with this case for an average of 5 to 10
minutes. Since a few cases take longer, some cases get
much less attention and this may be one of those.
The case was likely resolved by one law clerk,

probably with a sheltered life experience of 26 years.

Pursuant to 9th Circuit's General Order 4.3.a. prohibiting panels from discussing the facts of the case being decided in unpublished opinions our law clerk has not written the facts of the case. Therefore you should be concerned that there may be other facts of this case that may have affected the legal reasoning used herein. (At the same time the instant litigants may take our word that the oral presentation of the facts of the case by our law clerk in our momentary exposure to this case did not include or leave out any particular facts that judges' greater knowledge and experience might have found significant).

The facts and abbreviated legal reasoning were likely relayed to the judges, and on that basis the judges were able to determine what the outcome of the case is. The judiciary has eliminated stating the problem, meaningful analysis, and how the result follows, a process every first year algebra student knows is a waste of time, and equally wasteful of our novice law clerks' time.

Because the 5 to 10 minutes we spend on the case is an average and some cases require longer consideration this case may have received only momentary consideration. Therefore, in many cases, you may expect that the judges' signatures are no more than a rubber stamp of a law clerk's decision. We do not ask that law clerk to sign the decision or tell you whether or not the judges really thought about this case because we are concerned about charges of unlawful delegation of judicial function.

Your Court of Appeals asks Courts and Litigants to keep all of this in mind before citing or relying upon this appellate opinion.

submit2: Submit Comment

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