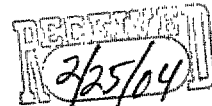


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February 19, 2004

03-AP-500

Mr. 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

Re: Proposed Amendment to Fed.R.App.P. 32.1

Dear Mr. McCabe:

I am opposed to the proposed Fed.R.App.P. 32.1 which, as I understand it, would permit mere memoranda decisions of the United States Courts of Appeals to be cited as precedent.

Memoranda dispositions are precisely that: Mere memoranda dispositions as opposed to fully reasoned opinions which are arrived at following the submission of careful (and hopefully thorough) briefs and often oral argument.

As a criminal defense lawyer who has handled in excess of 175 appeals, at least one-third of which have been in every Circuit Court except the District of Columbia. I find the possibility of being confronted with memoranda dispositions as precedent to be both astonishing and dangerous to the Rule of Law and concept of precedent.

I served for several years on the Board of Directors of the National Association of Criminal Defense Lawyers. As you can see from my letterhead, I am the immediate Past President of the American Board of Criminal Lawyers. I write this letter, however, in my individual capacity.

I am a firm believer in respecting that wise notion: "If it ain't broke, why fix it?" What is the problem? Reliance upon memoranda dispositions will create far more mischief than any perceived problem it will solve. Too much reliance will be placed on summary dispositions. Little, if any, judicial efficiency will be accomplished.

Mr. Peter G. McCabe  
February 19, 2004  
Page Two

We owe future generations that which our Founding Fathers and early Supreme Court Justices gave us: The Rule of Law, the concept and notion of stare decisis, and the firm knowledge that reliance on a precedent is appropriate, because those who authored the opinion have had the opportunity to not only hear from all sides of the controversy, but thereafter rendered a decision based on reason and the Rule of Law.

Very truly yours,



JOEL HIRSCHHORN

JH:aa