

**Rule 37. Suggestion of mootness; voluntary dismissal.**

(a) Suggestion of mootness. It is the duty of each party at all times during the course of an appeal or other proceeding to inform the court of any circumstances which have transpired subsequent to the filing of the appeal or other proceeding which render moot one or more of the issues raised. If a party determines that one or more, but less than all, of the issues have been rendered moot, the party shall promptly advise the court by filing a "suggestion of mootness" in the form of a motion under Rule 23. If all parties to an appeal or other proceeding agree as to the mootness of one or more, but less than all, of the issues raised, a stipulation to that effect shall be filed with the suggestion of mootness. If an appellant determines all issues raised in the appeal or other proceeding are moot, a motion for voluntary dismissal shall be filed pursuant to the provisions of paragraph (b) of this rule.

(b) Voluntary dismissal. At any time prior to the issuance of a decision an appellant may move to voluntarily dismiss an appeal or other proceeding. If all parties to an appeal or other proceeding agree that dismissal is appropriate, a stipulation to that effect shall be filed with the motion for voluntary dismissal. Any such stipulation shall specify the terms as to payment of costs, if applicable, and provide for payment of whatever fees are due.

(c) If appellant has the right to effective assistance of counsel, a motion to voluntarily dismiss for reasons other than mootness shall be accompanied by appellant's personal affidavit demonstrating that appellant's decision to dismiss the appeal is voluntary and made with knowledge of the right to an appeal and an understanding of the consequences of voluntary dismissal.

~~(e)~~(d) A suggestion of mootness or motion for voluntary dismissal shall be subject to the appellate court's approval.

**Advisory Committee Note.**

Criminal defendants have a constitutional right to the effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668 (1984); *State v. Arguelles*, 921 P.2d 439, 441 (Utah 1996). Parties in juvenile court proceedings have a statutory right to effective assistance of counsel. *State ex rel. E.H. v. A.H.*, 880 P.2d 11, 13 (Utah App. 1994); see

31 Utah Code Ann. § 78-3a-913(1)(a)(Supp. 1998). To protect these rights and the right to  
32 appeal, Utah Code Ann. § 77-18a-1(1)(Supp. 1998); id. § 78-3a-909(1)(1996), the last  
33 sentence was added to rule 37(b) to assure that the decision to abandon an appeal is  
34 an informed choice made by the appellant, not unilaterally by appellant's attorney.