

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

2 (a) **Suggestion of mootness.** Any party aware of circumstances that render moot one or more of
3 the issues presented for review must promptly file a “suggestion of mootness” in the form of a
4 motion under Rule 23.

5 (b) **Voluntary dismissal.** At any time prior to the issuance of a decision an appellant may move to
6 voluntarily dismiss an appeal or other proceeding. If all parties to an appeal or other proceeding
7 agree that dismissal is appropriate and stipulate to a motion for voluntary dismissal, the appeal will
8 be promptly dismissed. The stipulation must specify the terms as to payment of costs and fees, if
9 any.

10 (c) **Affidavits or declaration.** If the appellant has the right to effective assistance of counsel, a
11 motion to voluntarily dismiss the appeal for reasons other than mootness must be accompanied by
12 appellant’s personal affidavit or unsworn declaration ~~under Section 78B-5-705~~ as described in
13 Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, demonstrating that the appellant’s
14 decision to dismiss the appeal is voluntary and is made with knowledge of the right to an appeal
15 and the consequences of voluntary dismissal. If counsel for the appellant is unable to obtain the
16 required affidavit or declaration from the appellant, the motion must be accompanied by counsel’s
17 affidavit or declaration stating that, after reasonable efforts, counsel is unable to obtain the required
18 affidavit or declaration and certifying that counsel has a reasonable factual basis to believe that the
19 appellant no longer wishes to pursue the appeal.

20 Effective June 9, 2020 under Rule 11-105