

Rule 37. Suggestion of mootness; voluntary dismissal.

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

(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 and stipulate to a motion for voluntary dismissal, the appeal will be promptly dismissed. The stipulation must specify the terms as to payment of costs and fees, if any.

(c) **Affidavits.** If the appellant has the right to effective assistance of counsel, a motion to voluntarily dismiss the appeal for reasons other than mootness must be accompanied by appellant’s personal affidavit or declaration under Section 78B-5-705 demonstrating that the appellant’s decision to dismiss the appeal is voluntary and is made with knowledge of the right to an appeal and the consequences of voluntary dismissal. If counsel for the appellant is unable to obtain the required affidavit or declaration from the appellant, the motion must be accompanied by counsel’s affidavit or declaration stating that, after reasonable efforts, counsel is unable to obtain the required affidavit and certifying that counsel has a reasonable factual basis to believe that the appellant no longer wishes to pursue the appeal.

Effective May 1, 2018

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).~~