

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

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

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

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

21 *Effective ~~June 9~~ November 1, 2022 under Rule 11-105*

22 [Advisory Committee Note](#)

23 [“Declaration” refers to an unsworn declaration as described in Title 78B, Chapter 18a,](#)
24 [Uniform Unsworn Declarations Act.](#)

25 [Adopted 2022](#)