NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.S
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

DIVISION ONE
FILED: 02/092010
PHILIP G. URRY, CLERK
BY: GH

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

IN RE JOHN P.	1 CA-JV 09-0098 DEPARTMENT C MARICOPA County Superior Court No. JV-550379
	D E C I S I O N **O R D E R**

This matter was considered by Presiding Judge Patrick Irvine and Judges Michael J. Brown and Donn Kessler. On December 29, 2009, this Court entered an order suspending this appeal through February 3, 2010, and revesting jurisdiction in the superior court to consider an application by Appellant for an evidentiary hearing on the issue of effective assistance of counsel. In that order, we stated that if we did not receive an order disposing of the merits of that issue or a request to continue the appeal by February 3, the appeal would be reinstated before this Court on February 4, and the appeal would proceed based on the briefs and record on file with this Court. We have received a February 1, 2010 order of the superior court releasing Appellant from probation and redesignating the offense as a misdemeanor. We have also received Appellant's motion to continue suspension of the appeal reflecting the February 1 order and stating that the Appellant has decided not to pursue the ineffective assistance of

counsel claim or the appeal and counsel is merely waiting for a written authorization from the Appellant before filing a motion to dismiss the appeal.

The crux of the appeal was whether Appellant's trial counsel failed to inform the Appellant of an alleged offer by the State for a plea admitting to the offense as a misdemeanor. The superior court has now released Appellant from probation and designated the offense as a misdemeanor. Accordingly,

IT IS HEREBY ORDERED that this appeal is dismissed as moot.

IT IS FURTHER ORDERED denying the motion to continue suspension of the appeal as moot.

/s/
DONN KESSLER, Judge