

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CAF 23-01508

PRESENT: LINDLEY, J.P., BANNISTER, OGDEN, DELCONTE, AND HANNAH, JJ.

IN THE MATTER OF NATHAN A. ZARBO,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

CONNIE B. GRANCHELLI, RESPONDENT-APPELLANT.

JASON R. DIPASQUALE, BUFFALO, FOR RESPONDENT-APPELLANT.

BRIAN R. WELSH, WILLIAMSVILLE, FOR PETITIONER-RESPONDENT.

Appeal from an order of the Family Court, Niagara County (Erin P. DeLabio, J.), entered August 7, 2023, in a proceeding pursuant to Family Court Act article 6. The order directed respondent to pay counsel fees.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: In this proceeding pursuant to Family Court Act article 6, respondent mother appeals from an order awarding counsel fees to petitioner father. The mother did not appear at the hearing on this matter, however, and we conclude that, under the circumstances of this case, her unexplained failure to appear constituted a default (see *Matter of Long v Hartung*, 232 AD3d 1218, 1219 [4th Dept 2024]; *Matter of Malachi S. [Michael W.]*, 195 AD3d 1445, 1446 [4th Dept 2021], *lv dismissed* 37 NY3d 1081 [2021]). No appeal lies from an order that is entered upon the default of the appealing party (see *Matter of David P.S. [Grace C.L.]*, 222 AD3d 1332, 1332-1333 [4th Dept 2023]; *Matter of Roache v Hughes-Roache*, 153 AD3d 1653, 1653 [4th Dept 2017]), and we therefore dismiss the appeal.

Entered: January 31, 2025

Ann Dillon Flynn
Clerk of the Court