

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

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CA 25-00138

PRESENT: LINDLEY, J.P., CURRAN, OGDEN, GREENWOOD, AND HANNAH, JJ.

CHRISTOPHER MONFORT, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

ALDEN CENTRAL SCHOOL DISTRICT AND
ALDEN CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION,
DEFENDANTS-RESPONDENTS.

WEITZ & LUXENBERG, P.C., NEW YORK CITY (JASON P. WEINSTEIN OF
COUNSEL), FOR PLAINTIFF-APPELLANT.

HODGSON RUSS LLP, BUFFALO (HUGH M. RUSS, III, OF COUNSEL), FOR
DEFENDANTS-RESPONDENTS.

Appeal from a "decision and order" of the Supreme Court, Erie County (Daniel Furlong, J.), entered January 14, 2025. The "decision and order" granted in part the motion of defendants for summary judgment dismissing the complaint.

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

Memorandum: In this action pursuant to the Child Victims Act (see CPLR 214-g), plaintiff purports to appeal from the "Decision and Order," as limited by his brief, to the extent that it granted that part of defendants' motion seeking summary judgment dismissing his second cause of action, for negligent supervision of plaintiff while acting in loco parentis. We dismiss the appeal. " '[N]o appeal lies from a [mere] decision,' " and a document does not become an order simply because it has been denominated as such (*Garcia v Town of Tonawanda*, 194 AD3d 1479, 1479 [4th Dept 2021]; see *Allen v Grimm*, 208 AD3d 1589, 1589-1590 [4th Dept 2022]; *Kuhn v Kuhn*, 129 AD2d 967, 967 [4th Dept 1987]). Although the paper contains the words "Decision and Order," it does not meet the essential elements of an order inasmuch as it does not "recite the papers used on the motion" (CPLR 2219 [a]), and furthermore "that document did not actually order anything" (*Pecora v Lawrence*, 28 AD3d 1136, 1137 [4th Dept 2006]; see *Prevost v Associated Materials, LLC*, 239 AD3d 1235, 1236 [4th Dept 2025]).

Entered: May 1, 2026

Ann Dillon Flynn
Clerk of the Court