

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

WELLS FARGO BANK, N.A,

Plaintiff,

v.

**CLAUDETTE CAMBRAN
and PATRICIA POND,**

Defendants.

1:10-cv-00104-EAH

**TO: Richard Dollison, Esq.
Dwayne Henry, Esq.¹
Claudette Cambran, pro se
Patricia Pond, pro se**

ORDER

THIS MATTER comes before the Court on the Amended Motion for Leave to Execute on Judgment (“Amended Motion”), filed on July 15, 2025 by Attorney Richard Dollison, counsel for Plaintiff Wells Fargo Bank, N.A. (the “Bank”). Dkt. No. 172. In the motion, Attorney Dollison states that the Judgment in this debt and foreclosure case was granted in February 2018 against Defendants Claudette Cambran and Patricia Pond, Dkt. No. 128, and the Court issued a Praecipe in August 2018, Dkt. No. 137. In January 2019, the Court issued a Writ of Execution, Dkt. No. 148, but it contained an incorrect amount due. Because it was incorrect

¹ Attorney Henry is still on record as representing Defendants Cambran and Pond, as he filed a Motion for Reconsideration of the Order and Judgment in March 2018. Dkt. No. 134. In a Show Cause hearing on June 25, 2025, Attorney Henry stated he no longer represented the Defendants. The Court informed him that he never filed a motion to withdraw. Attorney Henry filed a motion to withdraw on June 27, 2025, Dkt. No. 170, that the Court denied without prejudice on July 1, 2025 as deficient because it failed to comply with LRCi 5.2(b), Dkt. No. 171.

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when filed, it could not have been properly executed on and in fact was never executed on. Dkt. No. 172. He submits that the January 2019 Writ should therefore be deemed void. Accordingly, the Amended Motion provides a new Writ of Execution that contains the correct amount due, as of July 15, 2025, for the Clerk of Court to sign, and the Bank proposes to proceed in accordance with 5 V.I.C. § 488 that sets forth the procedure for parties to follow if it seeks to execute on a judgment more than five years after the judgment has been entered and a writ of execution has not issued. *Id.* The Court will grant in part and deny in part the Amended Motion.

BACKGROUND

As background for the Bank's request, the docket in this case shows that Judgment was issued in this case by then-Magistrate Judge George W. Cannon, Jr.² on February 7, 2018 against Defendants Claudette Cambran and Patricia Pond that foreclosed real property on St. Croix described as:

Plot No. 68 of Parcel No. 42 of Estate Eliza's Retreat ("Flamboyant"), East End Quarter "A", St. Croix, USVI, consisting of 5,190.04 square feet as more fully shown on PWD No. 1727-10, dated May 7, 1969.

Dkt. No. 128. At that time, the Judgment totaled \$129,945.88, with pre-judgment interest accruing from April 21, 2017 until the February 7, 2018 date of Judgment at the rate of 8.5 percent, and at the rate of four percent thereafter. *Id.*

² The parties had consented to jurisdiction by the Magistrate Judge, Dkt. Nos. 47, 48.

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In August 2018, then-counsel for the Bank, Robert Wood, Esq., filed a Praecipe for Writ of Execution, Dkt. No. 137, followed by an Amended Praecipe in January 2019. Based on the Amended Praecipe, a Writ of Execution issued on January 28, 2019 in the amount of \$159,934.93. Dkt. No. 148. However, in arriving at that figure, the Writ double-counted months of pre-judgment and post-judgment interest, making that figure incorrect. The Writ was never executed on.

Nothing further occurred in this case until March 2024 when Attorney Dollison was substituted to appear on behalf of the Bank. Dkt. Nos. 149, 150. In July 2024, he filed a Praecipe seeking a total of \$174,434.04, which brought the post-judgment interest current as of that date. Dkt. No. 152. The Court held a hearing on June 25, 2025 to clarify the proper procedure to be followed in this situation where a Writ of Execution had issued containing an incorrect figure and had not been executed on.

At the hearing, Attorney Dollison posited that the Writ of Execution issued in 2019 should be considered expired because no return had been filed within 60 days of its issuance; in addition, the writ contained incorrect figures because it double counted pre- and post-judgment interest. Given these deficiencies, he argued that the writ should be void as erroneous and should be viewed as not having been issued in the first place. Given that the 2019 Writ was void, the Bank should follow the procedure set out in 5 V.I.C. § 488 to seek a Writ of Execution, which would also protect the interests of the Defendants. He stated he would file an Amended Motion for Leave to Execute on Judgment.

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Attorney Dollison filed the Amended Motion on July 15, 2025. Dkt. No. 172. In his Memorandum in Support, he reiterated his position that the 2019 Writ contained an incorrect figure of the total amount due and therefore should be deemed void. Dkt. No. 172-

1. He calculated the correct amount owed on the Judgment, as of July 15, 2025, as follows:

Judgment	\$129,945.88 (as of 4/21/2017)
Pre-Judgment Interest	\$ 8,832.95 (\$30.26 per diem, 8.5% interest) ³ (4/22/2017-2/7/2018) 292 days
Post-Judgment Interest	\$ 41,295.15 (\$15.21 per diem, 4% interest) (2/8/2018-7/15/2025) 2,715 days
TOTAL	\$180,076.95

Following the provisions in 5 V.I.C. § 488(2), Attorney Dollison attached summonses for the two Defendants, Claudette Cambran and Patricia Pond, Dkt. No. 172-2, 172-3, and a draft Writ of Execution to be signed by the Clerk of Court, Dkt. No. 172-4. The memorandum also requested a “Judgment”: (a) declaring that Plaintiff is entitled to execute on the Judgment of this Court dated February , 2018; (b) declaring that the Writ of Execution issued on January 28, 2019 is null and void; (c) directing the Clerk of Court to issue the attached Summonses to Defendants Claudette Cambran and Patricia Pond pursuant to 5 V.I.C. § 488(2); (d) finding that Defendants Cambran and Pond are jointly and severally liable and

³ This figure is actually incorrect, as it seems the Bank transposed two of the figures. The correct amount should be \$8,835.92. But since the amount sought is lower, and thus in favor of the Defendants, the Court will not amend the \$8,832.95 figure sought by the Bank.

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indebted to Plaintiff under the Judgment in the amount of \$180,076.95 as of July 15, 2025, with interest continuing to accrue at a rate of \$15.21 per diem so that the Court can issue a Writ of Execution; (e) enforcing and foreclosing Plaintiff's priority judgment lien on the Mortgaged Premises and ordering the Mortgaged Premises of Plot No. 68 of Parcel 42 of Estate Eliza's Retreat (Flamboyant), East End Quarter A, St. Croix, U.S. Virgin Islands, be sold in satisfaction of the total indebtedness to Plaintiff, and foreclosing upon any and all junior liens or encumbrances of any nature recorded after the date of the Mortgage herein, in accordance with the provisions of 28 V.I.C. §§ 533-534; (f) declaring that Defendants, and all persons claiming from and under them, are barred and forever foreclosed of all rights, title, lien, claim and equity of redemption in and to the Mortgaged Premises, subject only to the statutory right of redemption, except where waived and released; (g) granting possession of the Mortgaged Premises to Plaintiff or the purchaser at the foreclosure sale against Defendants and/or anyone holding under the Defendants; and (h) awarding Plaintiff such other and further relief as the Court determines to be just and proper. *Id.* at 2-3.

DISCUSSION

Generally, in a debt and foreclosure action in the Virgin Islands, if the Court issues the mortgagee (usually a bank) a judgment of debt and foreclosure, the bank will thereafter file a Praecipe to the Clerk of Court, setting out the sums due and asking the Clerk to issue a Writ of Execution against the defendants. *See* V.I. R. Civ. P. 69(a). The Praecipe asks the Marshal to return the Writ of Execution within sixty days of the Marshal's receipt. The Clerk of Court will then issue a Writ of Execution setting forth the amounts due and directing the U.S.

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Marshal to make the sums due on accruing costs to satisfy the Judgment out of the property belonging to the Judgment Debtor(s) and make return of the Writ within sixty days after receipt thereof. *See* 5 V.I.C. § 474. The property is then sold, and the Court will issue an Order Confirming Sale of the property that provides, inter alia, that the Judgment Debtor(s) shall have six months from the date of the Order to exercise their right to redeem under Virgin Islands law. *See* 5 V.I.C. § 489.

Here, however, that process was not completed. After the Court issued a Judgment, a Praecipe, and a Writ of Execution that contained a significant error in the calculation of the amount due the Bank, the process inexplicably halted for more than five years. With new counsel, the Bank now seeks to proceed on the Judgment. The issue is what process should be followed for the Bank to properly do so.

The answer to that question is facilitated by the Bank's concession that the 2019 Writ contains an incorrect amount due, could not have been properly executed upon, and is therefore void. In essence, the Bank seeks to withdraw the 2019 Writ and proceed as if it were a nullity, as if it was never issued. The Court accepts this concession, which also leads the way to the appropriate procedure the Bank should follow in order to now execute on the 2018 Judgment.

Title 5, Section 488 of the Virgin Islands Code, entitled "Execution more than 5 years after judgment," provides:

Whenever, after the entry of judgment, a period of five years shall elapse without an execution being issued on such judgment, thereafter an execution shall not issue except as in this section provided:

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- (1) The party in whose favor a judgment was given shall file a motion with the clerk of the court where the judgment was entered for leave to issue an execution. The motion shall state the names of the parties to the judgment, the date of its entry, and the amount claimed to be due thereon, or the particular property on which the possession was thereby adjudged to such party remaining undelivered. The motion shall be subscribed and verified in like manner as a complaint in an action.
- (2) At any time after filing such motion the party may cause a summons to be served on the judgment debtor in like manner and with like effect as in an action. In case such judgment debtor is dead, the summons may be served upon his representative by publication as in the case of a non-resident, or by actual service of the summons.
- (3) The summons shall be substantially the same as in an action, but instead of a notice therein required it shall state the amount claimed or the property sought to be recovered, in the manner prescribed in subdivision (1) of this section.
- (4) The judgment debtor, or his representatives in case of his death, may file an answer to such motion within the time allowed to answer a complaint in an action, alleging any defense to such motion which may exist. If no answer is filed within the time prescribed the motion shall be allowed of course.
- (5) The word 'representative' in this section shall be deemed to include any or all of the persons mentioned in subdivision (2) of section 473 of this title, in whose possession property of the judgment debtor may be which is liable to be taken and sold or delivered in satisfaction of the execution and not otherwise.
- (6) The order shall specify the amount for which execution is to issue, or the particular property possession of which is to be delivered; it shall be entered in the minutes and docketed as a judgment.

5 V.I.C. § 488.

Here, with the 2019 Writ of Execution being void, the proposed Writ of Execution that the Bank has attached to its Amended Motion for Leave to Execute on Judgment would be

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the first Writ of Execution issued in this case. It would be issued more than five years after the 2018 Judgment would be entered, and therefore the provisions of 5 V.I.C. § 488 control. The Bank has filed a motion for leave to execute on the judgment, in compliance with 5 V.I.C. § 488(1), and it has attached proposed summonses, in compliance with 5 V.I.C. § 488(2) and (3).⁴

However, the Court observes that some of the requests for relief the Bank seeks in its memorandum of law, ¶ 10, Dkt. No. 172-1 at 3-4, is inappropriate and is akin to what the Court would grant in a Judgment or in an Order Confirming Sale. Thus, the Court grants the relief sought in paragraphs 10(a) (declaring that Plaintiff is entitled to execute on the Judgment of this Court dated February 7, 2018); 10(b) (declaring that the Writ of Execution issued on January 28, 2019 is null and void); 10(c) (directing the Clerk of the Court to issue the Summonses filed herewith as Exhibits A and B pursuant to V.I. Code Ann. Title 5 § 488(2); 10(d) (finding that Defendants Claudette Cambran and Patricia Pond are jointly and severally liable and indebted to Plaintiff under the Judgment in the amount of \$180,076.95 as of July 15, 2025, with interest continuing to accrue at a rate of \$15.21 per diem so that the Court can issue a Writ of Execution); and 10(h) (awarding Plaintiff such other and further relief as the Court determines to be just and proper). The Court will deny the Amended Motion in part to the extent it seeks the relief requested in paragraphs 10(e), (f), and (g).

⁴ The Court notes that its mailings in 2017 and 2018 to the Defendants at their addresses on file have been returned, Dkt. No. 118, 127, 133, which may require the Bank to effect service in other ways, but that will remain to be seen. *See* Dkt. No. 132.

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Accordingly, it is hereby **ORDERED**:

1. The Bank's Amended Motion for Leave to Execute on Judgment, Dkt. No. 172, is **GRANTED IN PART AND DENIED IN PART**.
2. The Amended Motion is **GRANTED IN PART** to the extent that the Court will direct the Clerk of Court to execute the Writ of Execution attached to the Amended Motion as Dkt. No. 172-4, and issue the Summonses to Defendants Claudette Cambran and Patricia Pond, attached as Dkt. Nos. 172-2, 172-3. It grants the relief set forth in the memorandum of law at paragraph 10, subsections (a) through (d) and (h). Dkt. No. 172-1 at 3-4.
3. The Amended Motion is **DENIED IN PART** to the extent that the Bank seeks the additional relief set forth on in the memorandum of law, paragraph 10, subsections (e) through (g). Dkt. No. 172-1 at 4.

ENTER:

Dated: July 18, 2025

/s/ Emile A. Henderson III

EMILE A. HENDERSON III

U. S. MAGISTRATE JUDGE