

# The Virgin Islands Consortium

## In Landmark Victory, Judge Rules In Bernard Cuffy's Favor, Denying All Relief Sought By Plaintiffs

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ST. CROIX -- An important and landmark victory was handed down in the Superior Court today on St. Croix by Judge Jomo Meade to Bernard Cuffy, which will cement moving forward how land disputes relative to right of way (R.O.W.) are handled in the Virgin Islands for subdivision property owners.

Judge Meade denied all relief sought by the plaintiffs -- Brian and Cynthia Devlin, Patricia H. Babij, Austin McKenzie, Sr., Andrew and Karen Hooker, Charles Adams, and Lynn Cameron Pontius -- against Mr. Cuffy, including emergency relief and an emergency order that sought to stop Mr. Cuffy from clearing the R.O.W. path to his #38 Clairmont property.

The [story concerning Mr. Cuffy](#) has captured the attention of the entire Virgin Islands community and even those from other jurisdictions watching on The Consortium's Facebook platform. The [video interview](#) has been viewed over 124,000 times. Mr. Cuffy told The Consortium in the interview that neighbors to his Clairmont plot were attempting to block him from using the pathway not because of security, as he said they claimed, but because he is not White. "It's going to be a security issue for them because I am not White. That's the problem," said Mr. Cuffy, who owns Carpet Masters, a firm offering rug and carpet cleaning as well as sales. "They want to control the mountain. You can't control the mountain, it's not yours. It's a subdivision. This is the Virgin Islands."

Attorney Mark Eckard, who represented the plaintiffs, tirelessly argued that the right of way was on private property, and therefore Mr. Cuffy should not be allowed to clear a path. His position was refuted time and time again by employees of the Department of Planning and Natural Resources, an expert surveyor and Judge Meade himself.

In court today, defense Attorney Gertrude LeCointe introduced a star witness to the stand, Wayne D. Callwood, the Virgin Islands territorial public surveyor for the last ten years. Mr. Callwood's work includes approving maps and deeds, among other roles. He had reviewed maps 5472, 2161 and 1407, to determine the right of way for the subdivision on which Mr. Cuffy's land sits, and established, like the expert testifiers before him, that the right of way indeed remains in place as part of the subdivision.

The pathway for the road leading to Mr. Cuffy's property is 30 feet wide. From the center moving outward 15 feet on either side along the road belongs collectively to the property owners equally, Mr. Callwood made known, and this makes up the R.O.W. Even so, he added that all land in the territory is subject to Virgin Islands law, and contrary to Attorney Eckard's argument that Mr. Cuffy needed permission from the neighbors to clear the path to his property, the only permission Mr. Cuffy needed, Mr. Callwood said, was from the Government of the Virgin Islands through D.P.N.R., which he has already secured.

Mr. Callwood also cited Virgin Islands Code Title 29, Subsection 230, which reads, *"The use of any roadway or street onto, within or through any subdivision of residential development of ten or more dwellings, which roadway or street is open to the use of any other persons as guests, visitors or permittees, other than the actual inhabitants thereof, shall not be denied or restricted directly, indirectly or by subterfuge, to any person, subject only to the conditions and limitations established by law and applicable in like manner to all persons."*

Furthermore, Mr. Callwood stated, Virgin Islands deeds say owners are subject to easement, right of way and Virgin Islands law.

Another witness called to the stand, Norman Smith, who Mr. Cuffy has hired to clear the pathway to his lot, spoke on how he intends to do the job without damaging any of the encroachments found on the roadway before they are eventually replaced.

Attorney Eckard did not deviate from the line of argument that he had maintained throughout the two-day trial. Today, he said because the pathway runs on the properties of multiple owners, permission was needed before anything could be done. This time, however, he was shutdown by Attorney LeCointe. She mentioned the current encroachments on the right of way, including the steps, a pedestal on which electric

boxes are installed, a septic tank, and a fence, among others -- all encroachments by current property owners. Who did they consult? The room fell silent.

Attorney LeCointe said Mr. Devlin, during the temporary restraining order hearing had called the pathway his backyard. "They have encroached and they are trying to protect their encroachments," Attorney LeCointe contended in closing arguments. She said if the plaintiffs were granted their wish, "it would have open a can of worms." In another instance, she said if Mr. Cuffy was not given his right of way, "it would be pandemonium here," not referring to violence, but the avalanche of cases that would arise.

Judge Meade, following closing arguments, immediately ruled on the matter, deeming the plaintiffs' argument insufficient to meet the burden of their suit's demands. Throughout the trial, the judge would seek to have Mr. Eckard explain why a man who purchased a plot of land that is part of a subdivision, with a right of way to get to his property, should not be allowed to do so. Today, as Mr. Eckard argued of future occurrences that may come as a result of Mr. Cuffy clearing the path to his plot, which Mr. Eckard described as steep, Judge Meade said, "If Mr. Cuffy wants to expend money to pay to build on a steep hill, you cannot stop him." The hill Attorney Eckard has contended to be steep, was not seen as such by the defendants.

Following the judgement, a number of individuals expressed elation, including Mr. Cuffy's wife, Athlene. "We are ecstatic that justice was served not just for us, but for the entire Virgin Islands community. We able to preserve our heritage for all Virgin Islanders.

Mrs. Cuffy added, "We encourage Virgin Islanders not to be bullied and stand up for your rights. Fight back."

Senator Javan James, who attended the trial on both days, said, "This shows the importance of the first branch of government and the laws put in place to protect the people of the Virgin Islands. No one is above the law." He said part of the reason he attended the trial was to glean information that would help him forge legislation to ascertain that Mr. Cuffy had his right of way, if the defense had lost.

Mr. Cuffy, at the center of what became one of the most important trials and verdicts in the territory as it sets an important and definitive precedent, said the victory was not just for him but all Virgin Islanders.

"This is not for myself but the entire Virgin Islands," he said. Mr. Cuffy said even if someone is timid, this person should not back down from standing for their rights. "People should not back down and cower," he said.

Mr. Cuffy expressed a willingness to help anyone going through a similar situation. "I am willing to help for the rest of my life anyone who gets in a similar situation."

Mr. Cuffy also expressed an extreme sense of Virgin Islands pride, talking of the overwhelming support he received following the publication of the story and video on VI Consortium platforms.

"I appreciate all the support I have received, and I say thank you, thank you, thank you," he expressed.

Attorney LeCointe brought overwhelming evidence to the trial, revealing witness after witness -- like the D.P.N.R. employees and the territorial public surveyor, Mr. Callwood, to the stand. She told The Consortium following the judgement that she was pleased with the outcome.

"I'm just happy that justice was served. They were attempting to do something unfair. I think they were assuming he'd go away like McKenzie. They underestimated him and the people of the Virgin Islands people who rallied together," Attorney LeCointe said. She said Attorney Eckard's argument did not make sense. "Any reasonable person would understand you cannot build on a road once the government has said it is a road."

Ms. LeCointe added, "We don't have the right to break the law and come into court and ask the judge to support you. That's not the kind of territory we live in. In the Virgin Islands, we still have values."

A march on Mr. Cuffy's property has been planned for tomorrow. Participants are asked to gather at the La Reine Shopping Center's parking lot no later than 8:30 a.m. Once there, everyone will leave for Mr. Cuffy's property in Clairmont for 9:00 a.m. Everyone is invited to participate.

[View the original embedded media](#)

*Feature Image: Vehicle blocking path to right of way to Bernard Cuffy's plot in Clairmont. (Credit: Bernard Cuffy)*