VERMONT SUPREME COURT
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Case No. 26-AP-019

Note: In the case title, an asterisk (*) indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

AUGUST TERM, 2026

Colonial Savings, FA v. Adam Huntley* et al.	}	APPEALED FROM:
	}	
	}	Superior Court, Chittenden Unit,
	}	Civil Division
	}	CASE NO. 23-CV-05061
		Trial Judge: Colin Owyang

In the above-entitled cause, the Clerk will enter:

Defendant Adam Huntley, self-represented, appeals from the civil division's order confirming a judicial foreclosure sale. We affirm.

I. Procedural Background

Plaintiff Colonial Savings, F.A., filed this action to foreclose on defendant's mortgage in December 2023.[1] See 12 V.S.A. 4945(a) ("All liens and mortgages affecting real property may . . . be foreclosed by a judicial foreclosure sale."). The complaint included the following allegations. In 2016, defendant executed a promissory note, payable to the order of lender Union Bank, in the principal amount of $230,743. The note was secured by a mortgage on a South Burlington property owned by defendant. Mortgage Electronic Registration Systems, Inc., acting as a nominee for Union Bank, later assigned the mortgage to Colonial. Colonial asserted that the original note was currently in its possession, and that it was the holder of the note by virtue of an indorsement in blank. A copy of the note was attached to the complaint. In 2021, the terms of the mortgage and note were modified by agreement to reflect a principal balance of $203,435.90. Defendant failed to make the payments called for under the mortgage and note,

[1] As required by Vermont Rule of Civil Procedure 80.1(b), Colonial joined three other defendants in its complaint on the basis that they might have junior and inferior claims or interests in, or liens upon, the mortgaged property. See V.R.C.P. 80.1(b)(1) (providing that in complaint in action for foreclosure, "[a]ll parties in interest shall be joined as parties defendant"). The trial court later granted Colonial's motions for default judgment as to one of these defendants and for summary judgment against the other two. As used herein, "defendant" refers only to Mr. Huntley.

and a notice of default was provided in July 2023. On this basis, Colonial alleged that defendant breached the terms of the note and mortgage and requested a judgment of foreclosure.

Defendant filed a counterclaim. While the precise nature of the counterclaim asserted is difficult to discern, defendant generally alleged that Colonial violated several federal regulations.

The parties filed cross-motions for summary judgment on the claim and counterclaim. The court issued a brief order denying defendant's motion and granting Colonial's motion. In February 2025, the court issued a final judgment and decree of foreclosure by judicial sale. Defendant did not appeal.

The foreclosure sale took place in October 2025 and, the following month, Colonial moved the court to issue an order confirming the sale. See 12 V.S.A. § 4954(a) (requiring that, following judicial sale, plaintiff "file with the court a report on oath of the sale, together with a request for confirmation of the sale, which shall include an accounting of the sale proceeds"). Defendant opposed the motion, arguing that the sale should not be confirmed based on his allegations that: confirmation of the sale prior to the resolution of related claims he filed against Colonial in federal court would result in irreparable harm; Colonial failed to prove ownership of the note; the assignment of mortgage from Union Bank to Colonial was defective; and Colonial sent correspondence including contradictory statements. At plaintiff's request, the court scheduled a hearing on the motion.

Following the January 2026 hearing, the court granted Colonial's motion and issued a confirmation order. It explained that the motion was granted for the reasons it set forth on the record and further noted that the issues defendant raised in opposition to confirmation all related to the unappealed February 2025 judgment and decree of foreclosure by judicial sale. This appeal followed.

II. Analysis

Although defendant's appeal is from the confirmation order, the arguments he raises are directed at the foreclosure decree. Defendant contends that Colonial failed to establish standing by demonstrating that it had a right to enforce the note at the time the complaint was filed, as required under U.S. Bank National Association v. Kimball, 2011 VT 81, 190 Vt. 210, and that the court erred in granting summary judgment for Colonial where he demonstrated a genuine factual dispute as to this material fact. See id. ¶ 13 ("To foreclose a mortgage, a plaintiff must demonstrate that it has a right to enforce the note, and without such ownership, the plaintiff lacks standing."); V.R.C.P. 56(a) (providing that court shall grant summary-judgment motion only "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law"). Defendant challenges the confirmation order only insofar as he contends that it must be vacated because it is dependent on the validity of the foreclosure decree.[2]

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[2] Even if defendant's brief could be construed to raise a challenge to the court's independent decision to confirm the foreclosure sale, he forfeited any such challenge by failing to order a transcript of the January 2026 hearing. See V.R.A.P. 10(b)(1) (providing that appellant bears responsibility to order transcripts necessary for appeal and that, "[b]y failing to order a transcript, the appellant waives the right to raise any issue for which a transcript is necessary for informed appellate review"). As noted above, the trial court set forth its reasoning on the record

The court's February 2025 foreclosure decree was a final judgment, even though the statute contemplated that further proceedings would be necessary to confirm the foreclosure sale. TBF Fin., LLC v. Gregoire, 2015 VT 36, ¶ 20, 198 Vt. 607 ("[A] foreclosure decree is a final judgment even if a right to redeem exists, and even if further proceedings ancillary to the foreclosure itself are contemplated."); see HSBC Bank USA N.A. v. McAllister, 2018 VT 9, ¶ 10, 206 Vt. 445 (explaining that purpose of statutory confirmation-order requirement is "ensuring a court reviews the [foreclosure] sale and finds it was conducted with fairness and in accordance with the legal requirements"); 12 V.S.A. § 4954(a). This Court has recognized "a strong legislative policy favoring the finality of foreclosure judgments." Gregoire, 2015 VT 36, ¶ 20. Specifically, the Legislature provided that, "[w]hen a judgment is for the foreclosure of a mortgage, permission of the court shall be required for review." 12 V.S.A. § 4601.[3] Failure to comply with the statutory requirement "is jurisdictional and leaves this Court without authority to entertain the purported appeal." Denlinger v. Mudgett, 151 Vt. 208, 210-11 (1989).

We have applied this principle not only to untimely appeals from foreclosure decrees, but also to requests for our review of such decrees in other proceedings. See, e.g., Citibank, N.A., v. Groshens, 171 Vt. 639, 640 (2000) (mem.) (dismissing appeal from motion to reopen unappealed foreclosure judgment, observing that "the legislative policy of promoting the finality of foreclosure judgments would be thwarted if § 4601 could be circumvented simply by filing a motion to reopen," and concluding that Court lacked jurisdiction over appeal). For example, we have explained that where a mortgagor failed to appeal the denial of a request for permission to appeal from a foreclosure decree, that decree "became a final judgment settling all issues as to the validity of the mortgage and notes," and res judicata barred the mortgagor from raising issues that were part of the foreclosure proceeding in an independent civil action. Stowe Ctr., Inc. v. Burlington Sav. Bank, 141 Vt. 634, 637 (1982).

In the face of our recognition that "a foreclosure decree that is not timely appealed precludes the mortgagor . . . from contesting the validity of the mortgage or the interest of the mortgagee," defendant fails to identify any authority in support of his assumption that he may challenge the final foreclosure decree on appeal from the court's order confirming the subsequent sale. Mortg. Lenders Network, USA v. Sensenich, 2004 VT 107, ¶ 7, 177 Vt. 592 (mem.). We recognize, of course, that defendant challenges Colonial's standing, and standing is a necessary component of subject-matter jurisdiction. Unifund CCR Partners v. Zimmer, 2016 VT 33, ¶ 19, 201 Vt. 474. But while "[i]t is true that want of subject matter jurisdiction may be raised at any time . . . of equal dignity is the unyielding rule that this Court will not accept appeals over which it has no jurisdiction." Denlinger, 151 Vt. at 211 (citation omitted). Defendant has not adequately briefed the issue of whether we have jurisdiction to consider his arguments here. See V.R.A.P. 28(a)(4)(A) (requiring that appellant's brief include "the issues

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and did not detail those conclusions again in its subsequent written order. A transcript would therefore be necessary to support our review of the court's decision to confirm the sale.

[3] Although 12 V.S.A. § 4601 remained in effect at the time the foreclosure decree issued and throughout the period for the filing of motions for permission to appeal, it has since been repealed. 2025, No. 165 (Adj. Sess.), §§ 7, 41 (repealing § 4601 effective June 18, 2026); see V.R.C.P. 80.1(m) ("When the judgment is for foreclosure of the mortgage, the permission to appeal, required by law, shall be requested by motion filed within 14 days of the date of the entry of the judgment or order to be appealed from."). We note, however, that 12 V.S.A. § 4939 remains in effect and its language is identical to that previously contained in § 4601.

presented, how they were preserved, and appellant's contentions and the reasons for them—with citations to the authorities, statutes, and parts of the record on which the appellant relies"); cf. Duprey v. Harrington, 103 Vt. 274, 276 (1931) (explaining that where appellate jurisdiction "depends upon a compliance with the statute respecting such appeals, it logically follows that the appealing party must produce a record that affirmatively shows such jurisdiction—it will not be presumed"). We decline to address this question in the absence of such briefing. Pcolar v. Casella Waste Sys. Inc., 2012 VT 58, ¶ 19, 192 Vt. 343 (explaining that self-represented litigants must satisfy minimum briefing standards of Rule 28(a)(4) and declining to address inadequately briefed argument).

We do not address defendant's arguments on appeal because they all go to the merits of the unappealed foreclosure decree, and defendant has not demonstrated that this Court has jurisdiction to consider a challenge to that final judgment in his appeal from the court's confirmation order.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Nancy J. Waples, Associate Justice