

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 16, 2026

Christopher M. Wolpert
Clerk of Court

AUGUST WAKAT,

Plaintiff - Appellant,

and

POEBOY FLEMING AUTO
SALVAGE, INC.,

Plaintiff,

v.

CITY OF TULSA;
JOE ROBSON, individually and as agent
of Fair Oaks L.L.C.; HENRY WINN;
LAMAR ADVERTISING CO.;
PLAINVIEW SALVAGE INC.,

Defendants - Appellees,

and

FAIR OAKS TOWNSHIP;
ANN LANDRITH TRUST; ROBERT
RAINBOLT; JEREMY BILLINGSLEY;
JOHN DOE, 9-50, unknown persons
acting in concert under the moniker
“Cowboy Mafia”,

Defendants.

No. 25-5114
(D.C. No. 4:24-CV-00564-JDR-MTS)
(N.D. Okla.)

ORDER AND JUDGMENT*

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore

Before **MATHESON, CARSON, and ROSSMAN**, Circuit Judges.

Appellant August Wakat owns a parcel of land near Tulsa, Oklahoma. But according to him, a vast array of private and state actors—collectively known as the “cowboy mafia”—have conspired to dispossess him of the land and prevent him from vindicating his property rights in court.

The district court dismissed Mr. Wakat’s complaint for failure to state a claim. Mr. Wakat appeals *pro se*¹ from the dismissal order. We have jurisdiction under 28 U.S.C. § 1291, and we affirm. Both in the district court and on appeal, Mr. Wakat has waived his challenges to each defendant’s dismissal from the action.

BACKGROUND

The operative complaint alleges that Henry Winn conveyed a parcel of land to Mr. Wakat by general warranty deed. Unbeknownst to Mr. Wakat, the title was encumbered by defendants’ various “conflicting and adverse claims” on the property. Suppl. R. vol. 2 at 16 ¶ 112. For instance, Mr. Winn had previously erected several

ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

¹ We will construe a *pro se* litigant’s papers liberally, but we will not “serv[e] as the litigant’s attorney in constructing arguments and searching the record.” *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005). We will also hold the *pro se* litigant to “the same rules of procedure that govern other litigants.” *Id.* (internal quotation marks omitted).

structures on the land, including a billboard installed by Lamar Advertising. These structures violated zoning ordinances and had to be professionally removed, causing a \$12 million mechanic's lien on the property. Relatedly, in what Mr. Wakat calls a "21st Century Land Heist," the City of Tulsa had previously annexed the parcel without due process. *Id.* at 47. This unlawful annexation enabled the city to assess fines of \$1,200 per day for the above ordinance violations. Mr. Wakat has been harmed financially by these clouds on his land title, including having to close his business, being haled into sham foreclosure proceedings, and losing a \$15 million land sale contract.

The complaint alleges that defendants have conspired with public officials—all as part of the "cowboy mafia" led by Joe Robson—to deprive Mr. Wakat of his property without due process. *See id.* at 6 ¶ 33; 16 ¶ 112. It alleges further that the cowboy mafia's influence has rendered him "unable to obtain a fair and impartial tribunal hearing due to systemic bias." *Id.* at 7 ¶ 38. He asserts claims for relief under 42 U.S.C. § 1983, declaratory judgment, and quiet title under Oklahoma law.

In the district court, four of the named defendants²—the City of Tulsa, Joe Robson, Henry Winn, and Lamar Advertising—each moved to dismiss the complaint for failure to state a claim. Mr. Wakat filed a response in opposition to Mr. Robson's

² The operative complaint also named five other defendants—Fair Oaks Township, Ann Landrith Trust, Robert Rainbolt, Jeremy Billingsly, and Plainview Salvage, Inc.—who were dismissed from the action as never properly served. *See R.* vol. 1 at 90 & n.4. Similarly, the corporate plaintiff, Poeboy Fleming Auto Salvage, Inc., was dismissed after no counsel appeared on its behalf. *Id.* at 89 & n.1.

motion. *See* Suppl. R. vol. 6 at 7–11. But he did not do the same for the other three motions to dismiss—instead, he objected and moved to strike those filings as improperly successive. *See id.* at 74–78.

Upon review of the complaint, the district court granted all four motions to dismiss in a single order. This appeal timely followed.

DISCUSSION

Mr. Wakat seeks to challenge the dismissal of his complaint for failure to state a claim. But at various stages of the litigation, he has waived or abandoned his arguments as to each defendant’s dismissal from the action.

Consider Mr. Robson first. The district court recounted the complaint’s allegations that he (i) tried to initiate a “land swap” with Mr. Wakat, (ii) refused to testify in another case regarding Mr. Wakat’s land dispute, (iii) influenced Mr. Wakat’s lawsuits as a member of Oklahoma’s judicial nominating committee, and (iv) was involved in the city’s code enforcement operations against Mr. Wakat. It then concluded the complaint failed to allege that Mr. Robson conspired with government officials to violate Mr. Wakat’s constitutional rights.

Mr. Wakat does not meaningfully dispute this reasoning on appeal. Indeed, his entire analysis of Mr. Robson’s alleged role in the conspiracy is limited to just one sentence, where he argues that Robson’s and other defendants’ “conduct is plausibly ‘state action’ at the pleading stage because [they] allegedly acted jointly with City officials and used governmental authority to effect the deprivation.” Aplt. Br. at 10. This will not do. Although we construe Mr. Wakat’s briefing liberally, he

was still required at a minimum “to explain to us why the district court’s decision was wrong.” *Nixon v. City & Cnty. of Denver*, 784 F.3d 1364, 1366 (10th Cir. 2015). And here, this single sentence in the opening brief, unaccompanied by any effort at developed argument, is woefully insufficient to challenge the district court’s reasons for dismissing Mr. Robson from the action. *See, e.g., Murrell v. Shalala*, 43 F.3d 1388, 1389 n.2 (10th Cir.1994) (“a few scattered” and “perfunctory” statements that fail to frame and develop an issue are insufficient appellate argument); *see also* Fed. R. App. P. 28(a)(8). Accordingly, we deem Mr. Wakat’s arguments as to Mr. Robson’s dismissal below waived and decline to consider them. *See In re Syngenta AG MIR 162 Corn Litig.*, 61 F.4th 1126, 1181 (10th Cir. 2023) (a litigant “may waive appellate review of an issue by not arguing it—or arguing it in an inadequate manner—in [his] opening brief”); *Toevs v. Reid*, 685 F.3d 903, 911 (10th Cir. 2012) (“Arguments not clearly made in a party’s opening brief are deemed waived.”).

This appellate-briefing waiver applies in equal measure for the other three defendants. As to Lamar Advertising, the complaint had alleged that there was a mechanic’s lien on the property because of a nonconforming billboard; in the district court’s view, this was insufficient to allege Lamar Advertising’s engagement in state action for § 1983 purposes. On appeal, Mr. Wakat’s opening brief devotes roughly half a page to challenging Lamar Advertising’s dismissal from the action. *See* Apl’t. Br. at 13. This section contains no discussion of the applicable standard of review, and no citation to where, if at all, this argument was raised before the district court;

instead, it consists largely of citations to various legal authorities without further explanation. *See id.* This does not suffice to invoke our review.

The same goes for the City of Tulsa’s dismissal. The district court reasoned that the complaint had not tied any official policy or custom to Mr. Wakat’s harm for *Monell* purposes; instead, it alleged that various individuals affiliated with the city had used ordinance violations on the property to impose fines. But as before, the opening brief’s challenge to the city’s dismissal is limited to roughly one page, without any reference to the applicable standard of review, record citations, or developed explanation of the district court’s error. *See* Aplt. Br. at 11–12. Again, this is insufficient appellate argument.

So, too, for Mr. Winn’s dismissal. The complaint alleges that Mr. Winn conveyed a general warranty deed to Mr. Wakat but failed to deliver clear title because of the ordinance violations and mechanic’s lien; here again, the district court concluded that these allegations did not amount to engagement in state action for § 1983 purposes. But the opening brief’s treatment of Mr. Winn’s dismissal is similarly limited to “a few scattered” and “perfunctory” statements about his state-law quiet title claim, devoid of citations to the record or legal authorities, nor any meaningful explanation of how the district court erred. *See id.* at 11, 14, 16–17; *see also Murrell*, 43 F.3d at 1389 n.2. As before, this is inadequate presentation.

From the foregoing, this much is clear—Mr. Wakat’s cursory arguments as to the dismissals of Lamar Advertising, the City of Tulsa, and Mr. Winn are insufficiently briefed on appeal and therefore waived. *See In re Syngenta AG*

MIR 162 Corn Litig., 61 F.4th at 1181; *Toevs*, 685 F.3d at 911; *see also* Fed. R. App. P. 28(a)(8).

There is more. Mr. Wakat’s arguments regarding these three defendants suffer from an additional waiver problem—he never made them in the district court, and he does not make any plain-error arguments now, precluding appellate review. “When a party fails to raise an argument below, we typically treat the argument as forfeited.” *United States v. Leffler*, 942 F.3d 1192, 1196 (10th Cir. 2019). “And when an appellant raises a forfeited argument on appeal, we will reverse only if the appellant can satisfy our rigorous plain-error test.” *Id.* However, if the appellant “fails to preserve an issue and also fails to make a plain-error argument on appeal, we ordinarily deem the issue waived (rather than merely forfeited) and decline to review the issue at all—for plain error or otherwise.” *Id.*

Here, Mr. Wakat’s opposition to the dismissals of Lamar Advertising, the City of Tulsa, and Mr. Winn comes too late. Although he objected and moved to strike their motions to dismiss as improperly successive,³ he did not file any substantive response to them. *See* Suppl. R. vol. 6 at 74–78. So, the district court never passed upon many of the arguments he makes now—including, for instance, his

³ Contrary to Mr. Wakat’s suggestion, these motions to dismiss the operative complaint were not improperly duplicative or successive. Each of the four defendants moved to dismiss Mr. Wakat’s initial complaint. But before the district court ruled on them, Mr. Wakat amended his complaint, thereby mooting the four motions. *See* Suppl. R. vol. 6 at 5–6. Thereafter, the four defendants renewed their motions in response to the amended complaint; only *then* did the district court reach the merits of those motions.

contentions in support of his state-law quiet title claim, *see* Aplt. Br. at 11, 14, 16–17, and his suggestion that the city’s ordinance enforcement was a “recurrent practice[]” sufficient for *Monell* liability, *see id.* at 12. Furthermore, Mr. Wakat does not argue that the district court’s dismissal of these three defendants amounted to plain error. At bottom, Mr. Wakat’s “failure to argue for plain error and its application on appeal . . . surely marks the end of the road for [his] argument for reversal not first presented to the district court.” *Richison v. Ernest Grp., Inc.*, 634 F.3d 1123, 1131 (10th Cir. 2011). We therefore decline to review his contentions regarding the district court’s dismissal of these three defendants—*both* because they were waived on appeal, and because he did not preserve them before the district court.

CONCLUSION

For the foregoing reasons, we affirm the district court’s order dismissing the action for failure to state a claim. We also grant Mr. Wakat’s motion for leave to proceed *in forma pauperis* on appeal (Dkt. No. 16). We deny as moot Mr. Wakat’s “Notice of Bankruptcy and Motion to Confirm Applicability of Automatic Stay and for Temporary Injunctive Relief as to City of Tulsa, Fair Oaks Township, and Related Zoning, Tax, and Annexation Actions” (Dkt. No. 36). All other motions pending in this matter are denied (Dkt. Nos. 63, 69, 71, and 75).

Entered for the Court

Joel M. Carson III
Circuit Judge