

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,

v.

JOE ROBSON; FRANK ROBSON; FAIR
OAKS TOWNSHIP; JOHN DOES AND
JANE DOES 6-50,

Defendants - Appellees.

No. 25-5127
(D.C. No. 4:25-CV-00389-CVE-SH)
(N.D. Okla.)

AUGUST WAKAT,

Plaintiff - Appellant,

v.

LAMAR ADVERTISING CO.; PATRICK
SELCER,

Defendants - Appellees.

No. 25-5134
(D.C. No. 4:25-CV-00381-JDR-JFJ)
(N.D. Okla.)

AUGUST WAKAT,

Plaintiff - Appellant,

v.

PLAINVIEW SALVAGE INC.; JEREMY
BILLINGSLY; ROBERT RAINBOLT;
JUSTIN BEAN; JOHN DOES 4-50,

Defendants - Appellees.

No. 25-5135
(D.C. No. 4:25-CV-00386-GKF-JFJ)
(N.D. Okla.)

AUGUST WAKAT,

Plaintiff - Appellant,

v.

OKIE SMOKE.COM DISPENSARY
INC.; LORI A. BUNDY,

Defendants - Appellees.

No. 25-5137
(D.C. No. 4:25-CV-00384-JDR-JFJ)
(N.D. Okla.)

ORDER AND JUDGMENT*

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

Appellant August Wakat bought a tract of land in 2016. That purchase has not gone well for him. By his own count, Mr. Wakat has filed at least 38 lawsuits in the state and federal courts of Oklahoma, Texas, and Colorado concerning his property rights. Four of those lawsuits are at issue here.

In case no. 25-5127, the district court dismissed Mr. Wakat's case for lack of subject matter jurisdiction. Then, in case nos. 25-5134, 25-5135, and 25-5137—

* 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* ; 10th Cir. R. 34.1(G). The case is therefore 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

which we have consolidated¹ for review—the court dismissed each case after Mr. Wakat failed to either file a complete motion to proceed *in forma pauperis* or pay the required filing fee. Meanwhile, roughly a month after these lawsuits had terminated, the Northern District of Oklahoma imposed filing restrictions on Mr. Wakat.

Mr. Wakat appeals *pro se*² from all four cases. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm. Mr. Wakat’s briefing does not challenge the district court’s dismissal orders, so he has waived our review of them. Furthermore, we are without jurisdiction to consider his arguments regarding the filing restrictions.

BACKGROUND

I. *Wakat v. Robson, et al.* (25-5127)

The complaint in case no. 25-5127 alleged that in 2016, Mr. Wakat purchased land in Oklahoma. But years earlier in 2001, the Robson family had arranged for the

¹ This court procedurally consolidated case nos. 25-5134, 25-5135, and 25-5137 because they share the same posture—i.e., dismissal for failure to prosecute. On appeal, Mr. Wakat filed identical briefing in case no. 25-5127 and the consolidated cases. Because these cases involve overlapping facts, and because Mr. Wakat’s briefing and our rulings are the same across all four cases, we dispose of them together in this decision. Any record citations will thus be followed by a parenthetical indicating which case’s record is being cited.

² 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).

City of Tulsa to annex its ranchland in Fair Oaks—including Mr. Wakat’s tract—without notice or a hearing.

This unlawful annexation later caused problems for Mr. Wakat. In 2022, the Robsons tried to coerce him into selling or trading his land to them for the family’s real estate development plans. When Mr. Wakat refused, the Robsons conspired with city officials to have him cited for zoning violations. Even though the land was invalidly annexed and thus beyond the city’s enforcement authority, city officials still imposed hefty fines that forced Mr. Wakat to shutter his auto salvage business. His complaint thus sought relief under various federal civil rights statutes.

After *sua sponte* reviewing the above allegations, the district court concluded that the complaint was “primarily a collection of allegations from his previous lawsuits” that failed to allege civil rights claims under 42 U.S.C. §§ 1983 or 1985(3). R. at 73 (25-5127). The court discerned no other basis in the complaint for the exercise of subject matter jurisdiction and dismissed the action accordingly.

II. The Consolidated Cases (25-5134, 25-5135, and 25-5137)

In each of the consolidated appeals, the disposition was largely the same. In case no. 25-5134, Mr. Wakat sought relief under § 1983 and the Highway Beautification Act of 1965, alleging that defendants had conspired with county officials to erect an illegal billboard on his property. The district court dismissed his complaint and denied his *in forma pauperis* application with leave to amend, finding the latter filing deficient for failure to submit a complete financial affidavit. Rather

than amending his papers as instructed, Mr. Wakat filed an objection. The court overruled the objection and dismissed the case without prejudice.

In case no. 25-5135, Mr. Wakat sought to evict his tenants for causing damage and operating an illegal scrap metal yard on his property. The district court denied his *in forma pauperis* application as incomplete, granting him leave either to amend or pay the required filing fee. In response, Mr. Wakat objected and moved to disqualify Judge Frizzell and all other judges in the Northern District of Oklahoma; the court denied the motion but extended the time for filing an amended *in forma pauperis* application. After the deadline passed with no further action on Mr. Wakat's part, the court dismissed the case without prejudice.

In case no. 25-5137, Mr. Wakat sought contract damages and a mechanic's lien, alleging that he made unpaid improvements to a commercial space using equipment from his own property. In a minute order, the district court denied his *in forma pauperis* application with leave to amend, finding that Mr. Wakat had failed to file a complete financial affidavit. As before, Mr. Wakat responded by objecting and moving to disqualify Judge Russell and the rest of the Northern District of Oklahoma. He also submitted a new (but equally deficient) *in forma pauperis* application. The court denied both the motion and application and dismissed the case without prejudice.

III. General Order 25-09

Roughly a month after the above four cases were dismissed, the Northern District of Oklahoma separately issued General Order 25-09. *See In re August*

Wakat, No. 4:25-mc-00020-JFH, Dkt. No. 1 (N.D. Okla. Sept. 10, 2025) (“General Order 25-09”).³ After recounting Mr. Wakat’s history of frivolous filings in that district—including initiating at least 11 civil actions relating to his property rights within the prior year—the order imposed filing restrictions on Mr. Wakat. He is now barred from filing *pro se* papers in existing cases, or initiating new *pro se* civil actions, unless he petitions for leave in accordance with certain procedural requirements set forth in the order. *See id.* at *2–3.

DISCUSSION

For the reasons set forth below, we decline to review the district court’s dismissal orders due to Mr. Wakat’s failure to address them in his appellate briefing. Further, we decline to review the district court’s filing restrictions order as beyond the scope of our appellate jurisdiction.

I. Waiver

As the appellant in all four matters, it was Mr. Wakat’s “first task . . . to explain to us why the district court’s decision[s] [were] wrong.” *Nixon v. City & Cnty. of Denver*, 784 F.3d 1364, 1366 (10th Cir. 2015). But his opening brief—which was identical across case no. 25-5127 and the consolidated cases—“contains

³ General Order 25-09 was issued apart from the four underlying cases and is therefore not in any record before us. But “a federal court may take judicial notice of another court’s publicly filed records if they have a direct relation to matters at issue.” *Bruce v. City & Cnty. of Denver*, 57 F.4th 738, 741 n.3 (10th Cir. 2023); *see* Fed. R. Evid. 201(c)(1) (permitting a federal court to take judicial notice *sua sponte*). Accordingly, we elect to take judicial notice of General Order 25-09 to the extent that Mr. Wakat purports to challenge the filing restrictions imposed therein.

nary a word to challenge the basis of the dismissal[s].” *Id.* at 1369. Instead of contesting the district court’s reasoning as to subject matter jurisdiction or the *in forma pauperis* applications’ sufficiency, Mr. Wakat directs all of his arguments to the later order—not entered in any of the cases below—that imposes filing restrictions on him.

Under the doctrine of appellate-briefing waiver, a litigant “may waive appellate review of an issue by not arguing it—or arguing it in an inadequate manner—in [his] opening brief.” *In re Syngenta AG MIR 162 Corn Litig.*, 61 F.4th 1126, 1181 (10th Cir. 2023); *accord Toevs v. Reid*, 685 F.3d 903, 911 (10th Cir. 2012) (“Arguments not clearly made in a party’s opening brief are deemed waived.”). Although we treat *pro se* filings with solicitude, Mr. Wakat’s briefing makes no effort to grapple with (or even acknowledge) the district court’s analyses below. The appellate-briefing waiver doctrine plainly applies; as such, we decline to take up the merits of the district court’s dismissal orders. *See Kitchen v. Herbert*, 755 F.3d 1193, 1208 (10th Cir. 2014) (“The omission of an issue in an opening brief generally forfeits appellate consideration of that issue.”) (brackets and internal quotation marks omitted).

II. Filing Restrictions

Mr. Wakat argues on appeal that General Order 25-09 was issued without due process, and that it prevented him from pursuing his property-related claims in the four lawsuits now before us. *See* Aplt. Brs. at 7–8 (25-5127 & 25-5134). For three

reasons, however, we lack appellate jurisdiction to consider the filing restrictions imposed on him.

First, General Order 25-09 is not among the rulings that Mr. Wakat has designated for our review.⁴ *See* R. at 76–92 (25-5127); R. at 58 (25-5134). To challenge the filing restrictions, he needed to appeal the specific order imposing them in compliance with Rule 3—not collaterally attack them in these appeals. *See Werner v. Utah*, 32 F.3d 1446, 1448 (10th Cir. 1994) (per curiam) (“[I]f petitioner disagrees with the district court’s filing restrictions, his avenue for review is an appeal from the order establishing the restrictions.”); *see also* Fed. R. App. P. 3(c)(1)(B) (an appeal may be taken only by filing a notice of appeal that designates the judgment or appealable order being challenged).

Second, and closely related, this is not a case in which we can construe Mr. Wakat’s notices of appeal as encompassing General Order 25-09—i.e., by

⁴ Even if Mr. Wakat never formally designated General Order 25-09, we may still review the order so long as “other papers filed within the time period for filing the notice of appeal provide the functional equivalent of what Rule 3 requires,” *Denver & Rio Grande W. R.R. Co. v. Union Pac. R.R. Co.*, 119 F.3d 847, 849 (10th Cir. 1997) (internal quotation marks omitted).

Here, however, the latest dismissal order in any case was issued on August 19, Mr. Wakat filed a single notice of appeal for all four cases on August 21, and the filing restrictions were imposed on September 10. As a temporal matter, Mr. Wakat could not have intended to seek review of a filing restrictions order that did not exist when he initiated the appeals. Nor do any of his subsequent filings within the 30-day appeal window signal his intent to challenge General Order 25-09.

What’s more, because General Order 25-09 was entered well after the four cases had already terminated, it is doubtful that the filing restrictions prevented Mr. Wakat from “serving summons, filing pleadings, or prosecuting any claims” in these cases. *Aplt. Brs.* at 7 (25-5127 & 25-5134).

treating it as an order that “merged” into the dismissal orders actually designated. *See McBride v. CITGO Petroleum Corp.*, 281 F.3d 1099, 1104 (10th Cir. 2002) (“An appeal from a final judgment usually draws into question all prior non final orders and all rulings which produced the judgement.”) (internal quotation marks omitted); *see also* Fed. R. App. P. 3(c)(4). The filing restrictions were a later order entered in a different, “ongoing miscellaneous case”—not an order that merged into any of the four dismissal orders at issue here. *See* General Order 25-09 at *3; *see also Sines v. Wilner*, 609 F.3d 1070, 1075 (10th Cir. 2010) (order entered in a separate case did not merge into the final judgment named in the notice of appeal). In other words, Mr. Wakat cannot appeal from filing restrictions entered wholly distinct from—and well after the termination of—the underlying cases.

Third, even assuming he could challenge his filing restrictions in *these* appeals, “a separate notice of appeal is . . . required to obtain [our] review” of the later-entered General Order 25-09. *Art Janpol Volkswagen, Inc. v. Fiat Motors of N. Am., Inc.*, 767 F.2d 690, 697 (10th Cir. 1985). Mr. Wakat has not filed an amended notice of appeal (or its functional equivalent), and the window to do so has long since elapsed. *See* Fed. R. App. P. 4(a)(1)(A).

For these reasons, we decline to consider Mr. Wakat’s arguments concerning General Order 25-09.

CONCLUSION

In case no. 25-5127, we affirm the district court’s order dismissing the action for lack of subject matter jurisdiction. We also grant Mr. Wakat’s motion for leave

to proceed *in forma pauperis* on appeal (Dkt. No. 6). 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. 8).

In each of the consolidated cases, we affirm the district court's orders dismissing the action for failure to prosecute. We also grant Mr. Wakat's motions for leave to proceed *in forma pauperis* on appeal (25-5134, Dkt. No. 7; 25-5135, Dkt. No. 7; 25-5137, Dkt. No. 6).

Entered for the Court

Joel M. Carson III
Circuit Judge