

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-3199

FREDERICK M. TORRENCE,
Appellant

v.

MATTHEW L. HARRIS, SR;
EMMIE HARRIS; DENITA TORRENCE

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Civil Action No. 1:25-cv-00300)
District Judge: Honorable Susan Paradise Baxter

Submitted Pursuant to Third Circuit LAR 34.1(a)
September 16, 2026

Before: MATEY, MONTGOMERY-REEVES, and NYGAARD, *Circuit Judges*

(Opinion filed: September 18, 2026)

OPINION*

PER CURIAM

Pro se Appellant Frederick Torrence appeals from an order of the District Court sua sponte dismissing his complaint. We will affirm the judgment of the District Court.

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

I.

In October 2025, Torrence filed this 42 U.S.C. § 1983 action in the District Court alleging that appellees Matthew and Emmie Harris defrauded him in a real estate transaction. He additionally alleged that the theft was facilitated by appellee Denita Torrence. Torrence stated that the appellees violated his Fifth and Fourteenth Amendment rights as well as multiple Pennsylvania state laws. Torrence then filed a motion for an entry of judgment and an emergency motion for a temporary restraining order (“TRO”). In November 2025, the District Court sua sponte dismissed his complaint under 28 U.S.C. § 1915(e) and denied his pending motions. Torrence timely appeals.¹

II.

We have jurisdiction pursuant to 28 U.S.C. § 1291. Our review of the District Court’s sua sponte dismissal of Torrence’s complaint for failure to state a claim is plenary. *See Allah v. Seiverling*, 229 F.3d 220, 223 (3d Cir. 2000). In conducting that review, we accept the factual allegations in Torrence’s complaint as true and construe those facts in the light most favorable to him. *Newark Cab Ass’n v. City of Newark*, 901 F.3d 146, 151 (3d Cir. 2018). Because Torrence is proceeding pro se, we construe his filings liberally. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam). However, pro se litigants still “must abide by the same rules that apply to all other litigants.” *Mala*

¹ After Torrence filed his notice of appeal, he again moved for a temporary restraining order and entry of judgment. The District Court dismissed these post-judgment motions as moot. In his appellate brief, Torrence states that he wishes to appeal this order, which postdates his notice of appeal. Even if the order were within the scope of this appeal, we perceive no error in the District Court’s ruling.

v. Crown Bay Marina, Inc., 704 F.3d 239, 245 (3d Cir. 2013). To present an issue for review, a litigant’s opening brief must include, among other things, a statement of the issues, the legal argument explaining why the district court decided the issues incorrectly, and the facts and legal authorities supporting that argument. *See* Fed. R. App. P. 28(a). Thus, an appellant’s failure to raise an issue in the opening brief, even when proceeding *pro se*, renders it forfeited. *See In re Wettach*, 811 F.3d 99, 115 (3d Cir. 2016).

III.

On appeal, Torrence argues first that the District Court prematurely dismissed his complaint, limiting his ability to provide additional support for his case.² The District Court dismissed Torrence’s complaint under § 1915(e)(2), which mandates that district courts dismiss certain complaints brought by litigants proceeding *in forma pauperis* (“IFP”). While Torrence did not proceed IFP at the District Court, because he does not challenge the District Court’s basis for dismissal, he forfeited this issue. *See In re Wettach*, 811 F.3d at 115. In any event, reliance on § 1915(e)(2) was harmless error.³ We agree with the District Court that Torrence failed to state a claim. In order to

² Torrence also appeals the District Court’s dismissal of his first motion for entry of judgment or emergency motion for a temporary restraining order. However, he does not argue how or why the District Court erred in dismissing these motions. We thus deem these issues forfeited. *See In re Wettach*, 811 F.3d at 115. Torrence also argues that the District Court erred in failing to address whether “non-profits” in his complaint are “RICO organizations.” C.A. No. 7 at 3. Torrence did not raise this question in his complaint. We do not consider arguments made for the first time on appeal. *See Jenkins v. Superintendent of Laurel Highlands*, 705 F.3d 80, 88 n.12 (3d Cir. 2013).

³ Generally, a district court “may dismiss complaints under Rule 12(b)(6) *sua sponte* where appropriate” after service of process. *Grayson v. Mayview State Hosp.*, 293 F.3d 103, 111 n.15 (3d Cir. 2002).

successfully bring a § 1983 claim, a plaintiff has the burden of showing that the defendants violated their rights “under color of state law.” *Groman v. Twp. of Manalapan*, 47 F.3d 628, 638 (3d Cir. 1995). While a private individual can act under color of state law for the purposes of § 1983, that individual must have “exercised power possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.” *Id.* (cleaned up). Here, Torrence has not alleged that the appellees were anything other than private actors acting in their private capacities.

Accordingly, we will affirm the District Court’s judgment.