

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 26-2191

JHON CALDAS,
Appellant

v.

CITY OF UNION

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 2:26-cv-00785)
District Judge: Honorable Susan D. Wigenton

Submitted Pursuant to Third Circuit LAR 34.1(a)
September 3, 2026

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

(Opinion filed: September 10, 2026)

OPINION*

PER CURIAM

Appellant Jhon Caldas, proceeding in forma pauperis, appeals from the judgment of the District Court dismissing his civil rights complaint. We will affirm.

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

I.

Caldas alleged that in Fall 2024, long range acoustic devices emitted sounds that ruptured his eardrums, damaged his organs, and caused other injuries. He also alleged that the water and air where he was staying were contaminated and his computers and phone were interfered with. After the District Court dismissed his initial complaint, Caldas filed two new complaints. He also moved for a preliminary injunction and for appointment of counsel. The District Court dismissed Caldas's complaint under 28 U.S.C. § 1915(e) and denied his motions. Caldas timely appealed.

II.

We have jurisdiction under 28 U.S.C. § 1291. Our review of a district court's decision to dismiss a complaint for failure to state a claim under 28 U.S.C. § 1915(e) is plenary. *Allah v. Seiverling*, 229 F.3d 220, 223 (3d Cir. 2000). We “[r]eview the denial of a preliminary injunction for an abuse of discretion, an error of law, or a clear mistake in the consideration of proof.” *Kos Pharm., Inc. v. Andrx Corp.*, 369 F.3d 700, 708 (3d Cir. 2004) (internal quotations omitted). We review a district court's denial of a motion for appointment of counsel for abuse of discretion. *Tabron v. Grace*, 6 F.3d 147, 158 (3d Cir. 1993). We may summarily affirm if Weir's appeal fails to present a substantial question. 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.6.

Because Caldas 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 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.

In his operative complaint, Caldas raised claims for violations of the First, Fourth, and Fourteenth Amendments. On appeal, he states that he appeals the denial of his motions for appointment of counsel and preliminary injunction and the dismissal of his complaint. However, Caldas only provides reasoning for his appeal as to his motion for appointment of counsel. Because Caldas does not develop an argument as to why the District Court improperly dismissed his complaint or denied his motion for a preliminary injunction, he has forfeited those issues. *See In re Wettach*, 811 F.3d at 115. Even if he had not forfeited them, we agree, for the reasons provided by the District Court, that Caldas's complaint, does not state a claim and that as a result neither appointment of counsel nor injunctive relief was warranted. *Tabron*, 6 F.3d at 155 (stating that the underlying merit of a plaintiff's claim is a threshold issue for appointment of counsel and a preliminary injunction respectively); *Kos Pharms., Inc.*, 369 F.3d at 708 (stating that a showing of the likelihood of success on the merits is a necessary factor to obtain a preliminary injunction).

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