

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MARK ANDREW STONEY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:19-cv-00573-AKK
)	
LORI A. STONEY, et al.,)	
)	
Defendants.)	

ORDER

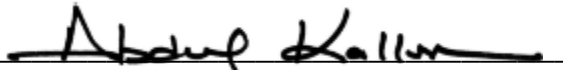
This matter is before the court on its own review. On April 15, 2019, Plaintiff filed the present action, alleging numerous state and federal claims against the Defendants, and moved to proceed *in forma pauperis*. Docs. 1, 2. The Magistrate Judge granted Plaintiff’s motion, but concluded that the complaint was due to be dismissed *sua sponte* because Plaintiff, as a private citizen, cannot prosecute the alleged criminal offenses and failed to state a claim under the Racketeer Influenced and Corrupt Organizations (“RICO”) Act, 18 U.S.C. § 1961-1968. Doc. 4; *see* 28 U.S.C. § 1915(e)(2)(B)(ii).¹ However, because the Magistrate

¹ 28 U.S.C. § 1915(e)(2)(B) directs the court to dismiss *sua sponte* any action by a plaintiff proceeding *in forma pauperis* that: “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” Dismissal under § 1915(e)(2)(B)(ii) is governed by the same standard as Federal Rule of Civil Procedure 12(b)(6). *Mitchell v. Farcass*, 112 F.3d 1483, 1490 (11th Cir. 1997); *see Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” (citation and quotations omitted)).

Judge lacked dispositive jurisdiction to dismiss the complaint, the case was reassigned to this court. *See* doc. 4.

Having reviewed the complaint and the Magistrate Judge's order, the court agrees that the complaint fails to state a claim on which relief may be granted, largely for the reasons expressed by the Magistrate Judge. *See id.* at 2-5. The court adds that although the Freedom of Access to Clinic Entrances ("FACE") Act, 18 U.S.C. § 248, does provide a private right of action, *see* doc. 4 at 4; 18 U.S.C. § 248(c)(1)(A), Plaintiff fails to state a FACE claim for interference with the exercise of religious freedom because he does not allege that the injurious conduct occurred "at a place of religious worship." 18 U.S.C. § 248(a)(2); *see* doc. 1 ¶ 34; *Cheffer v. Reno*, 55 F.3d 1517, 1519 n.3 (11th Cir. 1995) (noting that § 248(a)(2) "protects places of religious worship"); *United States v. Dinwiddie*, 76 F.3d 913, 923 n.6 (8th Cir. 1996) (noting § 248(a)(2) "applies to conduct that interferes with religious services conducted in a place of worship."). Therefore, this action is **DISMISSED WITHOUT PREJUDICE.**

DONE the 29th day of April, 2019.


ABDUL K. KALLON
UNITED STATES DISTRICT JUDGE