

**U.S. DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS,  
EASTERN DIVISION**

<b>JOY RYDER,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 20 CV 01153</b>
	)	
<b>DAVID HYLES, HYLES-ANDERSON COLLEGE and FIRST BAPTISH CHURCH OF HAMMOND, INDIANA, INC.</b>	)	<b>Hon. Charles R. Norgle, Sr. U.S. District Judge</b>
	)	
<b>Defendants.</b>	)	

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF DEFENDANT DAVID  
HYLES TO DISMISS FIRST AMENDED COMPLAINT  
PURSUANT TO F.R.CIV.P. 12 (b) (1) AND F.R.CIV.P. 12 (b)(6)**

Plaintiff Joy Ryder (“Plaintiff” or “Ryder”) improperly attempts to bring a claim for violations of the Racketeer Influenced and Corrupt Organizations Act (“RICO”) for events allegedly occurring at least 42 years ago. As detailed in the First Amended Complaint (“FAC”), the Plaintiff and her father purportedly confronted both the Defendant David Hyles and others in positions of authority at both the First Baptist Church of Hammond (“FBCH” or “Church”) and Hyles-Anderson College (“College”) about the alleged misconduct in 1980. The Plaintiff has raised complaints about the alleged misconduct multiple times over the intervening four decades. The Plaintiffs claims were time barred decades ago. The Plaintiff lacks standing to bring a claim under RICO. The Plaintiff Ryder has failed to establish federal court jurisdiction under RICO

and has failed to state a claim upon which relief can be granted. Accordingly, Ryder's claim against Defendant Hyles should be dismissed with prejudice.

**DEFENDANT DAVID HYLES JOINS IN THE MOTION TO DISMISS  
OF DEFEDANTS HYLES-ANDERSON COLLEGE AND FIRST BAPTIST CHURCH OF  
OF HAMMOND INDIANA, INC.**

Defendants Hyles-Anderson College and the First Baptist Church of Hammond Indiana have filed a joint Motion to Dismiss the FAC. As set forth in the College's and FBCH's Motion to Dismiss, those defendants present two fundamental issues. The first issue is that Plaintiff does not have standing to make a civil RICO claim in absence of an injury to a covered business or property interest. The second is that a civil RICO claim must be brought within four years of discovery of an injury. Under *Agency Holding Corp. et al. v. Malley-Duff & Associates, Inc.*, 483 U.S. 143 (1987), the Supreme Court adopted a uniform nationwide four-year statute of limitations for RICO civil claims. Defendant David Hyles joins in the Motion to Dismiss filed by the College and FBCH on both the lack of standing and statute of limitations grounds. The Defendant David Hyles focuses his separate motion to dismiss the FAC on other grounds for (a) lack of federal jurisdiction under F.R.Civ.P. 12 (b)(1) and (b) for failure to state a claim upon which relief can be granted under F.R.Civ.P. 12 (b)(6).

**THE FACTS AS ALLEGED IN THE FIRST AMENDED COMPLAINT  
FAIL TO STATE A CLAIM UNDER 12 (b)(6)**

The Plaintiff filed an initial complaint on February 17, 2020 against these Defendants alleging that jurisdiction was based upon diversity of citizenship under 28 U.S.C. § 1332. (Doc.1, ¶ 12) The Plaintiff then filed the First Amended Complaint on February 21, 2020 alleging that jurisdiction was based upon federal question jurisdiction under 28 U.S.C. § 1331. (FAC, ¶ 12)

The Plaintiff alleges that FBCH operated a church in Hammond, Indiana (FAC, ¶. 19). The Plaintiff also names the College, located in Indiana, as a defendant. (FAC, ¶. 19). The Plaintiff alleges that Defendant David Hyles was a citizen and resident of Hammond, Indiana at all material times. (FAC, ¶. 17). (The Plaintiff refers to the Church, College and Defendant David Hyles and “*their officers, personnel, members, agents and representatives*” as “*Hyles employees*” (FAC, ¶ 1) That designation makes it difficult to determine to whom the Plaintiff is referring. In some instances, the Plaintiff appears to refer to the Defendants as a group as “Hyles Employees” and in other instances the Plaintiff appears to be referring to employees of the Church and College.

Plaintiff also alleges, “*Based on its status (a position analogous to a bishop over a particular diocese) as a church organized and identified as the (sic) “Independent Fundamental Baptist” (“IFB”), Defendants were in a unique position to conceal the rape, sexual assault, and sexual abuse committed by Hyles Employees.*” (FAC, ¶. 3). Apart from Defendant David Hyles, the Plaintiff does not allege that anyone else associated with the Defendants allegedly sexually assaulted her at any time.

The Plaintiff does not allege who is the “bishop” and what is the “diocese” in her analogy as to the position of Defendant David Hyles, the Church and the College. The FAC alleges, “*Plaintiff attended Hammond Baptist Schools from 1972 to 1980, at which time she graduated high school.*” (FAC. ¶52). The FAC also alleges, “*Plaintiff also attended Hyles-Anderson College from 1980 to 1982 and then transferred to Tennessee Temple.*” (FAC, ¶ 53). The Plaintiff does not allege that Baptist churches have “Bishops” or “dioceses”.

The Plaintiff alleges in Paragraph 7 of the FAC, that: *This is a Racketeer Influenced and Corrupt Organizations Act (“RICO”) (sic) brought pursuant to 18 U.S. C. § 1961, et seq.*

*Plaintiff's Complaint is grounded on multiple violations of federal law prohibiting the obstruction of justice (section 1503); prohibiting the obstruction of criminal investigations (section 1510); and prohibiting the obstruction of State or local law enforcement (section 1511).*

None of the sections relating to obstruction of justice cited by Plaintiff relate to any alleged conduct by Defendant David Hyles or any other defendants. 18 U.S.C. § 1503, cited by Plaintiff, provides in part, *“Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate or impede any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate, in the discharge of his duty, or injures any such grand or petit juror in his person or property on account of any verdict or indictment assented to by him, or on account of his being or having been such juror, or injures any such officer, magistrate judge or other committing magistrate in his person or property on account of the performance of his official duties or corruptly or by threats or force or by any threatening letter or communication, influences, obstructs or impedes, or endeavors to influence, obstruct or impede the due administration of justice shall be punished as provided in subsection (b).”*

The FAC does not include any allegations of what actions were taken by Defendant David Hyles, or any other defendant, to threaten or impede the due administration of justice as provided in 18 U.S.C. § 1503. That is, the FAC does not include any allegation of a threatening communication to a U.S. Magistrate Judge or any other officer or to a petit or grand juror sent by Defendant Hyles or any other defendant. The FAC merely cites the statute.

The Plaintiff, in Paragraph 7 of the FAC, also refers to 18 U.S.C. § 1510. That section provides in relevant part:

*Whoever willfully endeavors by means of bribery to obstruct, delay or prevent the communication of information relating to a violation of any criminal statute of the United States, by any person to a criminal investigator shall be fined under this title or imprisoned not more than five years or both.*

The FAC also does not include any allegation of bribery by Defendant David Hyles, or any other defendant, made to anyone to obstruct or prevent communication to a criminal investigator nor does the FAC allege an attempt at such bribery. The FAC merely cites the statute with no factual allegations of any acts by anyone. (FAC ¶ 7).

In Paragraph 7 of the FAC, the Plaintiff also refers to 18 U.S.C. § 1511. That section provides in relevant part:

*It shall be unlawful for two or more persons to conspire to obstruct the enforcement of the criminal laws of a State or political subdivision thereof, with the intent to facilitate an illegal gambling business...*

The FAC does not include any allegation of conspiracy by Defendant David Hyles, or any other defendant, to obstruct the enforcement of criminal laws of any state in order to facilitate an illegal gambling business. The FAC merely cites the statute with no factual allegations of any acts by anyone. (FAC ¶ 7).

**THE FAC REFERS TO MULTIPLE PLAINTIFFS BUT DOES NOT IDENTIFY THE OTHER PLAINTIFFS**

In Paragraph 24 of the FAC, the Plaintiff refers to multiple “Plaintiffs”. In Paragraph 24, the FAC states: *“The details of Defendants’ efforts to conceal their unlawful conduct are in their possession, custody and control, to the exclusion of Plaintiffs, and await further discovery. When some of this material information was revealed to Plaintiffs, they exercised due diligence*

*by investigation the situation...*” The FAC does not identify who are the other “Plaintiffs” referred to in Paragraph 24 of the FAC.

**THE FAC IMPROPERLY CITES CRIMES UNDER THE  
SPECIAL MARITIME AND TERRITORIAL JURISDICTION  
OF THE UNITED STATES**

In Paragraph 42, the Plaintiff alleges that she was 15 years old when Defendant David Hyles allegedly raped her in his office. (FAC, ¶ 42). The Plaintiff alleges that she suffered sexual abuse by Defendant David Hyles “*for approximately two years.*” (FAC, ¶ 47). The Plaintiff alleges that the sexual abuse occurred in Defendant David Hyles office at the Church and College. (FAC, ¶ 48). The Plaintiff alleges that the alleged sexual abuse also occurred at a Holiday Inn in Lansing, IL. (FAC ¶ 56 )

In Paragraph 90 of the FAC, the Plaintiff cites 18 U.S.C. §2243, which provides “*Whoever, in the special maritime and territorial jurisdiction of the United States, or in a Federal Prison, or any prison, institution or facility in which persons are held in custody ... pursuant to a contract or agreement with the head of any Federal department or agency, knowingly engages in a sexual act with another person who...has attained the age of 12 but has not attained the age of 16...shall be ...imprisoned not more than 15 years....*”

Title 18 U.S.C. § 7, defines “*the special maritime and territorial jurisdiction of the United States,*” as the “*high seas and other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State...*” 18 U.S.C. § 7 (1), “*any vessel registered...under the laws of the United States...*” 18 U.S.C. § 7 (2), “*any lands reserved or acquired for the use of the United States...*” 18 U.S.C. § 7 (3), “*any aircraft...while such aircraft is in flight over the high seas...*” 18 U.S.C. § 7 (5).

The Plaintiff does not allege in FAC in which federal institution or in what “*special maritime or territorial jurisdiction*” of the United States that the alleged sexual misconduct occurred, whether on the high seas, in an aircraft in flight over the high seas or in a Federal prison or other federal institution. That is, the FAC does not allege a basis for federal criminal jurisdiction under the definition of “*the special maritime and territorial jurisdiction of the United States*” as defined by 18 U.S.C. § 7.

The Plaintiff also alleges in Paragraph 95 of the FAC that Defendant David Hyles violated 18 U.S.C. § 2241 by threatening a child to engage in sexual acts, “...*while in the territorial jurisdiction of the United States.*” In fact, 18 U.S.C. § 2241 refers to acts within the “*special maritime and territorial jurisdiction of the United States*”. That phrase is defined in 18 U.S.C. § 7, *supra*. The Plaintiff does not allege in what federal institution, on what federal reservation or where on the high seas that the alleged sexual misconduct violations occurred.

Similarly, Paragraph 96 of the FAC alleges numerous violations by Defendant David Hyles of 18 U.S.C. § 2244, abusive sexual conduct, within the “*special maritime and territorial jurisdiction of the United States*”. The FAC does not allege in what federal institution or on which federal reservation, the alleged sexual misconduct by Defendant David Hyles purportedly occurred. As with prior references to violations of federal law, the FAC does not allege a basis for federal criminal jurisdiction under 18 U.S.C. § 7 definition of “*the special maritime and territorial jurisdiction of the United States.*” The FAC alleges that “*Plaintiff would suffer sexual abuse by D.Hyles in his office located inside the buildings owned by the Church and College.*” (FAC ¶ 48). The Plaintiff does not allege that the Church and College buildings are within a federal reservation as defined in 18 U.S.C. § 7.

**THE PLAINTIFF CITES A STATUTE OF LIMITATIONS PROVISION  
WHICH APPLIES TO CRIMINAL PROSECUTIONS AND COULD NOT APPLY  
TO DEFENDANT DAVID HYLES**

In the FAC, after asserting numerous alleged violations by Defendant Hyles of federal criminal statutes based upon “*the special maritime and territorial jurisdiction of the United States*”, the Plaintiff cites the provisions of 18 U.S.C. § 3283, which provides: “*No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse... of a child under the age of 18 years shall preclude such prosecution during the life of the child...*” (FAC, ¶ 91)

The first point as to that Paragraph of the FAC is that the provisions of 18 U.S.C. § 3283 relate to criminal prosecutions and do not relate to statute of limitations applicable to civil RICO proceedings. The U.S. Supreme Court in *Agency Holding Corp. v. Malley-Duff & Associates*, 483 U.S. at 155-56, explicitly rejected the five year criminal statute of limitations for RICO criminal prosecutions as the basis for a statute of limitations for civil RICO proceedings. Criminal RICO proceedings and civil RICO proceeding have separate statutes of limitation. *Malley-Duff & Associates, supra*.

The second point is that 18 U.S.C. § 3283, cited by Plaintiff, was amended in 2003.

Public Law 108-21 amended 18 U.S.C. Section 3282 and substituted “Offenses against children” for “Child abuse offenses” in the section catchline and amended the text generally. Prior to the 2003 amendment, the text read as follows: “*No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse of a child under the age of 18 years shall preclude such prosecution before the child reaches the age of 25 years.*” Therefore, during the relevant time period alleged in the FAC, approximately 1978 to



1980, prosecutions for the violations cited by Plaintiff were precluded after the Plaintiff reached 25 years of age.

Because of the allegation in the FAC is that the Plaintiff and her father confronted the Defendant David Hyles in 1980, the year the Plaintiff graduated from high school, the Plaintiff would have been 17 or 18 years of age. (FAC ¶ 52, 62, 63, 64) Therefore, when the Plaintiff turned 25 in 1987 or 1988, the federal statute of limitations would have precluded a criminal prosecution for the sections cited by the Plaintiff.

The provisions of 18 U.S.C. § 3283, as currently constituted, could not apply retroactively to the conduct alleged in the FAC. The U.S. Supreme Court held in *Stogner v. California*, 539 U.S. 607 (2003) that California's retroactive extension of the statute of limitations for sexual offenses committed against minors was an unconstitutional *ex post facto* law. Thus, even if this FAC were somehow a criminal prosecution of Defendant David Hyles, such prosecution would be time barred under 18 U.S.C. § 3283. Needless to say, the FAC does not allege any criminal proceeding against Defendant David Hyles in 1980 or at anytime in the intervening 40 years based upon the allegations of the Plaintiff.

**THE PLAINTIFF REFERS TO “J.HYLES” OR JACK HYLES, WHO IS DECEASED, AS A DEFENDANT**

The FAC refers to “*Defendants J.Hyles and D.Hyles*” in Paragraphs 112 and 113 of the FAC. The Plaintiff states, “*The racketeering activities of Defendants First Baptist Church of Hammond, Indiana, Inc. and Hyles Anderson College, Inc., are distinct from those of Defendants D.Hyles and J.Hyles, inasmuch as J. Hyles and D. Hyles used their positions of influence in the Church and College to persuade the Hyles Employees to conceal, cover-up, condone and*

*facilitate D. Hyles sexual abuse of Plaintiff.”* (FAC, ¶ 112). The Plaintiff also alleges, “*Defendants J. Hyles and D. Hyles had interest (sic) and control over the Enterprise, and their interest and control was connected to the racketeering activity of the Defendants...*” . (FAC, ¶ 113)

In Paragraph 29 of the FAC, the Plaintiff does refer to the “*February 2001 death of J. Hyles.*” Therefore, the Plaintiff was and is aware that Jack Hyles passed away approximately 19 years prior to the filing of the FAC. The estate of Jack Hyles is not named as a Defendant in the FAC. As with the other issues of the statute of limitations in this matter, the time for filing a claim against the Estate of J. Hyles has long passed. Under Indiana law, a claim against a decedent’s estate must be filed within nine months of the death of the decedent. Indiana Code Title 29. Probate §29-1-7-7. Therefore, under Indiana law, the time for filing a claim against the estate of Jack Hyles passed approximately 18 years ago.

**BECAUSE PLAINTIFF HAS NO STANDING TO BRING A RICO CLAIM  
THIS COURT HAS NO JURISDICTION PURSUANT TO F.R.CIV.P. 12 (b)(1)**

For all the reasons set forth by the Church and College, Plaintiff Ryder lacks standing under RICO to assert a claim. Standing is a jurisdictional requirement for federal courts to consider any claim under RICO. The Seventh Circuit has stated that verifying its subject matter jurisdiction is a federal court’s “first duty” in every case. *McCready v. White*, 417 F.3d 700,702 (7<sup>th</sup> Cir. 2005). The Plaintiff’s FAC should be dismissed for lack of federal jurisdiction under RICO.

**THE FIRST AMENDED COMPLAINT FAILS TO STATE A CLAIM  
UNDER F.R.CIV.P. 12 (b)(6)**

The standard for determining whether a complaint can withstand a motion to dismiss under Rule 12 (b)(6), “...a complaint must plead facts sufficient ‘to state a claim for relief that is plausible on its face.’” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Only the facts alleged in a pleading are presumed to be true, not the pleadings bald assertions, conclusions or inferences. *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009). Mere “labels and conclusions” or “a formulaic recitation of the elements of a cause of action” are insufficient. *Id.* at 678.

**PLAINTIFF FAILS TO PLEAD THE ELEMENTS OF A RICO CLAIM  
AGAINST DEFENDANT DAVID HYLES**

Plaintiff fails to plausibly plead the elements of RICO claim against Defendant David Hyles.

The Racketeer Influenced and Corrupt Organizations Act (“RICO”) (18 U.S.C. § 1961 *et seq.*) “makes it unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.” *Boyle v. United States*, 556 U.S. 938, 943-44 (2009), quoting 18 U.S.C. § 1962(c). A RICO enterprise is “a group of persons associated together for a common purpose of engaging in a course of conduct,” and “is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit.” (*Id.* at 944-45).

To state a claim under RICO, Plaintiff Ryder must allege conduct of an enterprise through a pattern of racketeering activity. *Crichton v. Golden Rule Ins. Co.*, 576 F.3d 392, 398-99 (7<sup>th</sup> Cir. 2009). The Plaintiff alleges sexual misconduct by Defendant David Hyles apparently

ending in 1980. (FAC ¶ 63 ).(*“...Plaintiff informed D.Hyles she would no longer perform any sexual acts with him ever again and informed him that she brought her father to the secret rendezvous.”*) (FAC ¶ 63 ) The Plaintiff also alleges that Defendant Hyles left the College and FBCH and *“was sent to Texas.”* (FAC ¶ 67 ) The Plaintiff does not allege any continuing pattern of violations after the termination of the alleged misconduct, other than not disclosing or acting on the claims of Plaintiff. The sum of the Plaintiff’s allegations can be seen in Paragraph 79 of the FAC.( *“Sexual abuse has been tolerated and ignored by the Enterprise, and its leadership, for decades. Despite Plaintiff’s pleas, the Enterprise refused to take action to correct the wrong that had occurred to her and continued to cover-up the terrible acts committed against her.”*)(FAC ¶ 79). The Plaintiff only alleges the “obstruction of justice” citations in Paragraph 7, discussed above as “predicate acts.”

Apparently by not disclosing the Plaintiff’s alleged sexual misconduct allegations, the Plaintiff is alleging that Defendant David Hyles has committed, “obstruction of justice” as defined by 18 U.S.C. Sections 1503, 1510 and 1511. (FAC ¶ 7) As set forth above, the FAC does not identify what alleged bribes were paid to investigators or what alleged threats were made to court officials. The FAC fails to state the required predicate acts for the alleged RICO claim other than making the conclusory allegations of “obstruction of justice” without any factual detail. The Plaintiff merely alleges the conclusion that the Defendant David Hyles “obstructed justice” as defined in the citations discussed in Paragraph 7 of FAC.

The Seventh Circuit warned, *“While it is clear that the scope of civil RICO extends beyond the prototypical mobster or organized crime syndicate, it is equally evident that RICO has not federalized every state common law cause of action...” Midwest Grinding Co. v. Spitz*, 976 F.2d 1016, 1025 (7<sup>th</sup> Cir. 1992).

The decades old allegations of the Plaintiff cannot serve as a basis for a RICO complaint because the FAC fails (1) to adequately allege obstruction of justice as predicate acts (2) fails to define the RICO enterprise (3) fails to allege a common purpose for the enterprise and (4) fails to allege pattern of racketeering.

The Plaintiff attempts to twist her claims against the Defendant David Hyles and against the College and Church made over the decades since 1980 into a RICO claim. She has failed to adequately plead any of the requirements of RICO.

### CONCLUSION

WHEREFORE, Defendant David Hyles respectfully prays for entry of an order:

1. Dismissing the First Amended Complaint with prejudice; and
2. Entering judgment for the Defendant and making a finding under F.R.Civ.P. 54 (b) that there is not just reason to delay enforcement or appeal or both.

Date: June 17, 2020

Respectfully submitted,

David Hyles

By: /s/ James A. McGurk

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**CERTIFICATE OF SERVICE**

I, James A. McGurk, an attorney, certify that on June 17, 2020, I served a copy of the attached Memorandum of Law in Support of the Motion of Defendant David Hyles to Dismiss the First Amended Complaint, a copy of which is attached, upon the following individuals:

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By: /s/James A. McGurk  
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