

STANDARD OF REVIEW

Under 28 U.S.C. § 1915, an indigent litigant may commence an action in federal court without prepaying the filing fee. To protect against possible abuses of this privilege, the statute allows a district court to dismiss the case upon a finding that the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. *See* 28 U.S.C. § 1915(e)(2)(B).³

The complaints of self-represented litigants are held to a less stringent standard than those drafted by attorneys, *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978), and a federal district court is charged with liberally construing a complaint filed by a self-represented litigant to allow the development of a potentially meritorious case. *See Erickson v. Pardus*, 551 U.S. 89 (2007). When a federal court is evaluating a pro se complaint, the plaintiff's allegations are assumed to be true. *Erickson*, 551 U.S. at 93 (citing *Bell Atlantic Corporation v. Twombly*, 550 U.S. 544, 555–56 (2007)). Liberal construction does not mean that a court can ignore a clear failure in the pleading to allege facts that set forth a claim cognizable in a federal district court. *See Weller v. Department of Social Services*, 901 F.2d 387 (4th Cir. 1990); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 684 (2009) (outlining pleading requirements under Rule 8 of the Federal Rules of Civil Procedure for “all civil actions”).

DISCUSSION

Plaintiff's civil RICO claim fails because the complaint does not properly allege the elements of a RICO violation. A plaintiff seeking civil damages under RICO must allege and prove four elements: “(1) conduct [causing injury to business or property], (2) of an enterprise,

³ The Honorable James E Graham may also be dismissed from this action based on judicial immunity. *See In re Mills*, 287 Fed. Appx. 273, 279 (4th Cir. 2008) (“Judges performing judicial acts within their jurisdiction are entitled to absolute immunity from civil liability claims,” citing *Mireles v. Waco*, 502 U.S. 9, 11–12 (1991)).

(3) through a pattern, (4) of racketeering activity.” *Sedima S.P.R.L. v. Imrex Company, Inc.*, 473 U.S. 479, 496 (1995). Plaintiff alleges only personal injuries and RICO is not available for the redress of purely personal injuries. *See Drake v. B.F. Goodrich Company*, 782 F.2d 638, 644 (6th Cir. 1986). Furthermore, a RICO claim may not be based on allegations of civil rights violations. *See Bowen v. Oistead*, 125 F.3d 800, 806 (9th Cir. 1997). Rather, “[e]nacted to strengthen criminal and civil remedies against organized crime, RICO provides a private right of action for any person ‘injured in his business or property by reason of a violation of its substantive prohibitions.’ ” *Dahlgren v. First Nat’l Bank of Holdrege*, 533 F.3d 681, 689 (8th Cir. 2008) (quoting 18 U.S.C. § 1964(c)). To the extent Hickman generally refers to due process and equal protection, her statement is clearly insufficient to give defendants notice of the claims she is attempting to assert against them and will be dismissed without prejudice.

CONCLUSION

For these reasons, Hickman’s claims will be dismissed without prejudice. A separate order follows.

DATED this 28 day of May, 2013.

BY THE COURT:



James K. Bredar
United States District Judge