

CLERK'S OFFICE U.S. DIST. COURT  
 AT ROANOKE, VA  
 FILED  
**JUN 22 2005**  
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**IN THE UNITED STATES DISTRICT COURT  
 FOR THE WESTERN DISTRICT OF VIRGINIA  
 ROANOKE DIVISION**

<b>MARVIN CALLOWAY,</b>	)	
<b>Plaintiff,</b>	)	<b>Civil Action No. 7:05-CV-00387</b>
	)	
<b>v.</b>	)	<b><u>MEMORANDUM OPINION</u></b>
	)	
<b>RM COMPANY,</b>	)	<b>By: Hon. Glen E. Conrad</b>
<b>Defendant.</b>	)	<b>United States District Judge</b>

Plaintiff Marvin Calloway, a Virginia inmate located at Red Onion State Prison (ROSP) and proceeding pro se, brings this civil rights action, pursuant to 42 U.S.C. § 1983, with jurisdiction vested under 28 U.S.C. § 1343. Calloway alleges that on May 13, 2005 he sent \$23.00 for 22 pictures to the defendant. Calloway states that the defendant has not notified Calloway of when the pictures were mailed out or delivered them to the address Calloway gave the defendant. This complaint is before the court pursuant to the court's screening function, as set forth in 28 U.S.C. § 1915A.

Because the defendant is, as Calloway admits in his complaint, an outside company, it is not acting under authority of the state and is thus not a proper defendant for a civil rights action pursuant to 42 U.S.C. § 1983. Therefore, the court must file and dismiss this action for failure to state a claim, pursuant to 28 U.S.C. § 1915A(b)(1). Calloway is advised to seek restitution in a state court. An appropriate order will be entered this day.

**ENTER:** This 21<sup>st</sup> day of June, 2005.

*[Signature]*  
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 UNITED STATES DISTRICT JUDGE