

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

HUGH KEVIN WOODDELL,)	Civil Case No. 7:11cv00582
Plaintiff,)	
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
BATH COUNTY)	
SHERIFF'S DEPT., et al.,)	By: Norman K. Moon
Defendants.)	United States District Judge

Hugh Kevin Wooddell, a Virginia inmate proceeding *pro se*, brings this action under 42 U.S.C. § 1983 against the Bath County Sheriff's Department, Larry Northfleet, and Winford Smith alleging that the Sheriff's Department and Smith unlawfully searched and seized his property. However, despite being given the opportunity to amend his complaint, Wooddell does not allege any facts against defendant Northfleet. Accordingly, the court dismisses Wooddell's complaint without prejudice against Northfleet. Further, because Eleventh Amendment sovereign immunity extends to the Bath County Sheriff's Department, the court dismisses Wooddell's complaint without prejudice against the Bath County Sheriff's Department.

I.

To state a claim for relief under §1983, a plaintiff must allege facts indicating that plaintiff has been deprived of rights guaranteed by the Constitution or laws of the United States and that this deprivation resulted from conduct committed by a person acting under color of state law. West v. Atkins, 487 U.S. 42 (1988). Inasmuch as Wooddell has not alleged any facts against defendant Northfleet, the court dismisses this action against Northfleet.

II.

“The Eleventh Amendment limits the Article III jurisdiction of the federal courts to hear cases against States and state officers acting in their official capacities.” Kitchen v. Upshaw, 286 F.3d 179, 183-84 (4th Cir. 2002). This sovereign immunity “extends also to state agents and state instrumentalities, or stated otherwise, to arms of the State and State officials.” Cash v. Granville County Bd. of Educ., 242 F.3d 219, 222 (4th Cir. 2001) (citations and quotations omitted). In Virginia, federal district courts have consistently held that a sheriff and a sheriff’s department are “arms of the Commonwealth of Virginia and that they, therefore, are entitled to invoke the defense of immunity from suit pursuant to the Eleventh Amendment.” Blankenship v. Warren County, 918 F. Supp. 970, 974 (W.D. Va. 1996), modified, 931 F. Supp. 447, 449 (W.D. Va. 1996); see also Davis v. County of Amherst, Civil No. 6:07cv00017, 2008 U.S. Dist. LEXIS 15853, 2008 WL 591253 at *1 (W.D. Va. Mar. 3, 2008); Smith v. Fisher, No. Civ.A. 5:01-CV00026, 2002 U.S. Dist. LEXIS 1938, 2002 WL 192563 at *3 (W.D. Va. Feb. 7, 2002); Harris v. Hayter, 970 F. Supp. 500, 502 (W.D. Va. 1997); cf. McCoy v. Chesapeake Corr. Ctr., 788 F. Supp. 890, 892-93 (E.D. Va. 1992) (holding that “local jails are arms of the state for Eleventh Amendment purposes” and noting that “members of the Sheriff’s office who administer the jails are State officers”). Because “an entity with Eleventh Amendment immunity is not a ‘person’ within the meaning of § 1983,” Howlett v. Rose, 496 U.S. 356, 365 (1990), Wooddell’s complaint against the Bath County Sheriff’s Department must be dismissed.¹ However, to the extent that Wooddell claims any damages for his alleged constitutional violations, Eleventh

¹ Even if Eleventh Amendment immunity did not extend to the Bath County Sheriff’s Department, Wooddell has still failed to state a proper § 1983 claim against this defendant. Local governments “cannot be held liable under § 1983 on a respondeat superior theory.” Monell v. Dep’t of Soc. Servs., 436 U.S. 658, 691 (1978). “Instead, it is when execution of a government’s policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under § 1983.” Id. at 694. Having alleged no such policy or custom, Wooddell’s complaint does not state a claim for relief against the Bath County Sheriff’s Department.

