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

JAMES E. CUNNINGHAM,	)	**CASE NO. 7:12CV00357**
	)	
Plaintiff,	)	
	)	**MEMORANDUM OPINION**
vs.	)	
	)	
DANVILLE CIRCUIT COURT,	)	**By: James C. Turk**
	)	**Senior United States District Judge**
Defendant.	)	

James E. Cunningham, a Virginia inmate proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983, alleging that the defendant, the Danville Circuit Court, violated his constitutional rights related to his bond. Upon review of the record, the court finds that the action must be summarily dismissed.

Cunningham alleges that on June 6, 2012, the Danville Circuit Court revoked his bond on a charge of being drunk in public, despite the fact that he had not violated bond conditions. He also asserts that the Court erred in failing to set a new bond. As relief, Cunningham seeks reinstatement of his bond and compensation for his incarceration.

The court is required to dismiss any action or claim filed by a prisoner against a governmental entity or officer if the court determines the action or claim is frivolous, malicious, or fails to state a claim on which relief may be granted. 28 U.S.C. § 1915A(b)(1). It is now well settled that a state cannot be sued under § 1983. Will v. Michigan Dep't of State Police, 491 U.S. 58, 71 (1989) ("[N]either a State nor its officials acting in their official capacities are 'persons' under § 1983."). This rule applies "to States or governmental entities that are considered 'arms of the State' for Eleventh Amendment purposes." Id. at 70.

The only defendant that Cunningham sues is the Danville Circuit Court. Because the Circuit Court is properly considered an arm of the Commonwealth of Virginia, it cannot be sued under § 1983. Id.

For the reasons stated, the court dismisses Cunningham's complaint without prejudice, pursuant to § 1915A(b)(1), as legally frivolous. The Clerk is directed to send copies of this memorandum opinion and accompanying final order to plaintiff.

ENTER: This 28th day of September, 2012.

James C. Turk
Senior United States District Judge