

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

WILLIAM LEE NICKENS,)	
Plaintiff,)	Civil Action Nos. 7:23-cv-00615
)	
v.)	
)	By: Elizabeth K. Dillon
LT. GULLETT, <i>et al.</i> ,)	United States District Judge
Defendants.)	

MEMORANDUM OPINION

Plaintiff William Lee Nickens, a Virginia inmate proceeding *pro se*, filed a civil rights action pursuant to 42 U.S.C. § 1983, which was severed by the court into two cases, one of which is the above-captioned matter which involves allegations pertaining to the food service at the Duffield Regional Jail Authority. (Dkt. Nos. 1, 1-2.) There are two defendants in this action: Lt. Gullett¹ and Duffield Food Service. This matter is before the court for review pursuant to 28 U.S.C. § 1915A.

Courts must conduct an initial review of a “complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.” 28 U.S.C. § 1915A(a); *see also* 28 U.S.C. § 1915(e)(2) (requiring court, in a case where plaintiff is proceeding *in forma pauperis*, to dismiss the case if it is frivolous or fails to state a claim on which relief may be granted). Pleadings of self-represented litigants are given a liberal construction and held to a less stringent standard than formal pleadings drafted by lawyers. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam). Liberal construction does not mean, however, that the court can ignore a clear failure in pleadings to allege facts setting forth a claim cognizable in a federal district court. *See Weller v. Dep’t of Social Servs.*, 901 F.2d 387, 391

¹ Lt. Gullett executed a waiver of service. (Dkt. No. 9.)

(4th Cir. 1990).

Nickens' claims against Duffield Food Service must be dismissed because Duffield Food Service is not an entity that can be sued pursuant to § 1983. *See Graham v. Trinity Food Service*, Civil Action No. 7:23-cv-00062, 2023 WL 5019536, at *2 (W.D. Va. Aug. 7, 2023) (finding that Trinity Food Service and the Roanoke City Jail Kitchen are not “persons” subject to suit under § 1983); *Tilley v. Patrick Cty. Jail*, Civil Action No. 7:18-cv-00073, 2019 WL 845422, at *2 (W.D. Va. Feb. 21, 2019) (explaining that prisons and jails are “arms of the state for Eleventh Amendment purposes and thus not ‘persons’ under § 1983”).

The court will issue an appropriate order dismissing plaintiff's claims against Duffield Food Service.

Entered: November 20, 2023.

/s/ Elizabeth K. Dillon
Elizabeth K. Dillon
United States District Judge