

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Thomas Alan Skalicky,)
)
 Plaintiff,)
)
 vs.)
)
 Kolby Braun, Troy Schulz, and)
 Leann Bertsch,)
)
 Defendants.)

ORDER (AMENDED) DIRECTING SERVICE

Case No. 1:12-cv-061

Plaintiff Thomas Alan Skalicky (“Skalicky”) is an inmate at the Missouri River Correctional Center (“MRCC”). He initiated the above entitled pro se action on May 30, 2012, with the submission of an application to proceed in forma pauperis and proposed complaint. On June 22, he filed an amended complaint. This matter is now before the court for an initial review as mandated by 28 U.S.C. §1915A.

The undersigned has reviewed the complaint and is not prepared to conclude at this point that no claim for relief has been stated. See Gassler v. Rayl, 862 F.2d 706, 707-08 (8th Cir. 1988). Accordingly, it is hereby **ORDERED** that the Clerk's office file the complaint, effectuate service of the summons and complaint upon the Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure and, if necessary, that the service be made by the United States Marshals Service.

Defendants have filed a Motion to Dismiss Skalicky’s amended complaint on the grounds that neither they nor the State have been properly served. The motion is premature as it was filed before the court had concluded its initial screening of Skalicky’s amended complaint. See 28 U.S.C. § 1915A Consequently, the defendants’ motion (Docket No. 23) shall be deemed **MOOT**.

Dated this 27th day of July, 2012.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge