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2 Ms.

was also a psychiatry associate at the MHU.

3 ECF No. 84 at 2. She had numerous interactions with Mr. Troupe. *Id.*

4 Ms. was initially assigned as Mr. Troupe's primary contact. *Id.*

5 However, because Mr. Troupe "could not maintain appropriate  
6 boundaries," she requested that she be transferred off of his duty.

7 *Id.* At that point Mr. took over Mr. Troupe's care. *Id.* Ms.

8 however, would occasionally treat Mr. Troupe if Mr. Roe was  
9 unavailable.

10 Ms. , assessment of Mr. Troupe seems to mirror both Mr.

11 , and Ms. 's assessment. See ECF 118-2 at 130-136. She saw

12 his pattern of self-harm not as a legitimate suicidal tendency but as  
13 a manipulation tool. ECF 84 at 5.

14 Unlike Mr. and Ms. however, Mr. was not a part  
15 of Mr. Troupe's treatment team on the day they decided to release him.

16 There is no evidence before the Court indicating that Ms. was  
17 in anyway involved in releasing Mr. Troupe from the restraint bed. As  
18 such, Mr. Troupe's claim against Ms. is different than against

19 the other Defendants. See ECF No. 10 at 6-7. Mr. Troupe claims that  
20 after he was released from MHU to a holding cell and after he began

21 cutting himself, Ms. walked by the room and saw Mr. Troupe

22 cutting himself and did nothing. ECF No. 10 at 6. He further claims

23 that he asked Ms. for an emergency grievance and she denied it

24 to him and then covered the window to his seclusion room with a sheet

25 instead. *Id.* Mr. Troupe claims that no help given until after Sargent

26 removed the sheet and saw Mr. Troupe cutting himself.



Ms. in her declaration does not discuss this incident.

She acknowledged that she was not part of Mr. Troupe's treatment team and she discusses previous times that she covered Mr. Troupe's window prior to his release. See ECF No 84 at 6. In particular, she discusses an incident on May 19, 2012, where she covered his window. *Id.* She claims that this is a legitimate practice to reduce the stimulation of mental-health patients. *Id.* However, nowhere in Defendants' filings does Ms. deny covering Mr. Troupe's seclusion room window after he was released from the MHU and started cutting himself on May 21, 2012. This is the basis of Mr. Troupe's claim against Ms.

Therefore, the Court must deny Ms. summary-judgment motion simply because she doesn't provide any evidence to refute this claim against her.

D. Dana Fayette

(no longer works for DOC)

Dana Fayette was a Health Care Manager at the Washington State Penitentiary during the incident in question. ECF No. 85 at 1. Mr. Fayette's role was "administrative in nature." *Id.* He did not make health care evaluations, provide treatment, or make health care decisions. *Id.* at 1-2. While he did participate in team meetings with health care professionals, his role was to give advice on Department of Corrections's policies. *Id.* Mr. Troupe claims that Ms. Klahn and Mr. Fayette were mad at him and that is the reason he was released on May 21, 2012. Mr. Fayette denies the allegations and reiterates that he had no authority to not make healthcare decisions including the decision to release Mr. Troupe from the bed. The decision to release Mr. Troupe was made by Ms. and Mr. Mr. Troupe included an



1 entire section in his response to the summary-judgment motion titled  
2 "Fayette's Authority." ECF No. 119-1 at 190-199. Included are many  
3 documents that seem to indicate that Mr. Fayette authorized the use of  
4 the restraint bed at various times in the past. Many of them seem to  
5 indicate, however, that Mr. Fayette was authorizing or ratifying the  
6 decision of a health care professional and not actually making the  
7 decision to release Mr. Troupe. To the extent that the documents  
8 indicate otherwise, the most recent document was last dated in 2011.  
9 There is no evidence to show that Mr. Fayette participated in the  
10 decision to release Mr. Troupe on May 21, 2012.

11 Mr. Troupe also claims that after he was released from the bed  
12 and into the seclusion room, Mr. Fayette "walked by the windows that  
13 are big and easy to see in" and did not help him. ECF No. 10 at. 6.  
14 However, unlike Mr. Troupe's claim against Ms. Mr. Troupe does  
15 not claim that Mr. Fayette actually saw him harming himself nor does  
16 he claim that Mr. Fayette took any actions in response to the  
17 situation. His only claim is that Mr. Fayette walked by.

18 Therefore, because there is no evidence to show that Mr. Fayette  
19 was involved in the decision to release Mr. Troupe on May 21, 2012,  
20 and because there is no evidence to show that Mr. Fayette knew that  
21 Mr. Troupe was cutting himself and refused to help, no reasonable jury  
22 could find that Mr. Fayette acted with deliberate indifference. The  
23 Court grants Defendant Fayette's motion for summary judgment.

24 \* \* \* \*

25 ~~X~~ The facts, taken in the light most favorable to Mr. Troupe,  
26 support a finding that a constitutional violation occurred. If the



Defendants

released Mr. Troupe knowing that he

was a substantial risk of harm to himself and released him anyway a

with deliberate indifference to that risk the Defendants would have

violated Mr. Troupe's Eighth Amendment right. The Defendants' would

still be protected by qualified immunity if they could show that these

actions did not violate a "clearly established right." Devereaux, 263

F.3d at 1074. However, there is significant case law on this topic and

courts have made it clear that prison officials have a duty "to take

reasonable measures to guarantee the safety of the inmates," and that

acting with deliberate indifference toward a serious medical risk,

including suicide and self-harm threats, is a violation of the Eighth

Amendment. Farmer v. Brennan, 511 U.S. 825, 832 (1994); See also,

Hudson v. Palmer, 468 U.S. 517, 526 (1984); Estelle v. Gamble, 429

U.S. 97, 104 (1976) ("We therefore conclude that deliberate

indifference to serious medical needs of prisoners constitutes the

unnecessary and wanton infliction of pain proscribed by the Eighth

Amendment."); Parsons v. Ryan, 754 F.3d 657, 676-677 (9th Cir. 2014) ("A

prison official's deliberate indifference to a substantial risk of

serious harm to an inmate violates the Eighth Amendment."); Clouthier

v. Cty of Contra Costa, 591 F.3d 1232, 1241 (9th Cir. 2010) ("We have

long analyzed claims that correction facility officials violated

pretrial detainees' constitutional rights by failing to address their

medical needs (including suicide prevention) under a 'deliberate

indifference' standard."); Lolli v. Cty of Orange, 351 F.3d 410, 418

(9th Cir. 2003); Gibson v. Cty of Washoe, 290 F.3d 1175, 1188 (9th

Cir. 2002) ("A defendant is liable for denying needed medical care