Municipal Tort & Civil Rights

Litigation Update

League of California Cities
City Attorneys' Department
2016 Annual Conference

Walter C. Chung
Office of the City Attorney
San Diego, California

Long Beach Edition

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Hampton v. County of San Diego

(Dec. 10, 2015) 62 Cal.4th 340

Under Gov. Code section 830.6, does an “improper evaluation” result in the loss of governmental immunity?

Holding of the Case

The discretionary element of section 830.6 does not require a showing that the employee who approved the plans was aware of design standards or was aware that the plans deviated from those standards.

Burgueno v. The Regents of the University of California

(December 15, 2015) 243 Cal.App.4th 1052

Does the use of a trail for both recreational and non-recreational purposes preclude immunity under government code section 831.4?

Holding of the Case

The fact that a trail has a dual use -- recreational and non-recreational -- does not undermine section 831.4, subdivision (b) immunity.

People v. Steele

(Apr. 25 2016) 246 Cal.App.4th 1110

May a detention of a person be reasonable under the Fourth Amendment in the absence of reasonable suspicion of criminal activity on the part of that individual?

Holding of the Case

Law enforcement officers may lawfully detain a defendant when detention is necessary to determine the defendant's connection with the subject of a search warrant and related to the need of ensuring officer safety.

Thomas v. C. Dillard and Palomar Community College District

(9th Cir. 2016) 818 F.3d 864

Can the domestic violence nature of a police investigation *alone* be sufficient to establish reasonable suspicion to conduct a *Terry* frisk for weapons?

Holding of the Case

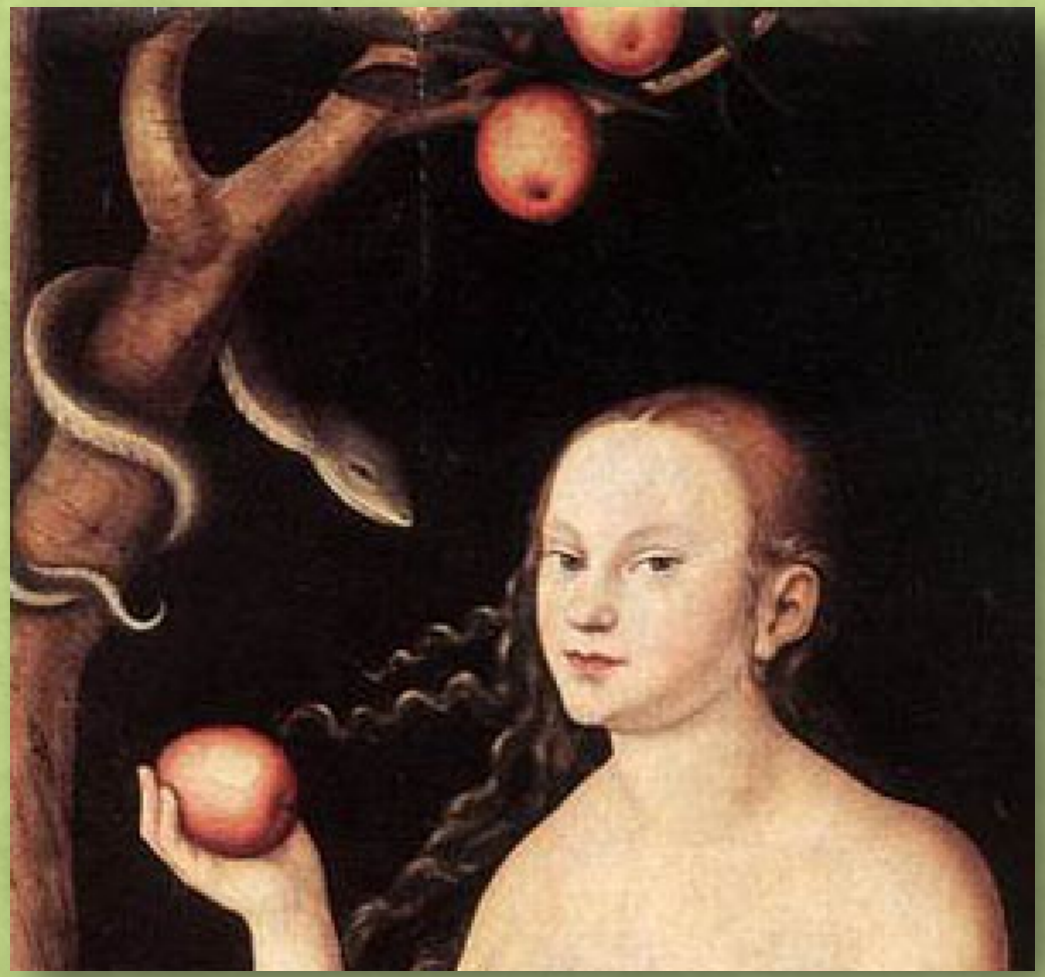
The domestic violence nature of a police investigation alone cannot be sufficient to establish reasonable suspicion for a frisk

Lia Marie Lingo v. City of Salem Lia Marie

(9th Cir. June 27, 2016) 2016 WL 4183128, amended on August 8, 2016

Should the exclusionary rule applicable in criminal cases also apply in § 1983 cases?

Holding of the Case



The exclusionary rule itself should not be applied in a § 1983 case. The rule and its "fruit-of-the-poisonous-tree" doctrine are not constitutionally required, but instead are a "judicially created means of deterring illegal searches and seizures".

Utah v. Strieff

(June 20, 2016) 136 S.Ct. 2056

Does the exclusionary rule automatically apply when there is a Fourth Amendment violation?

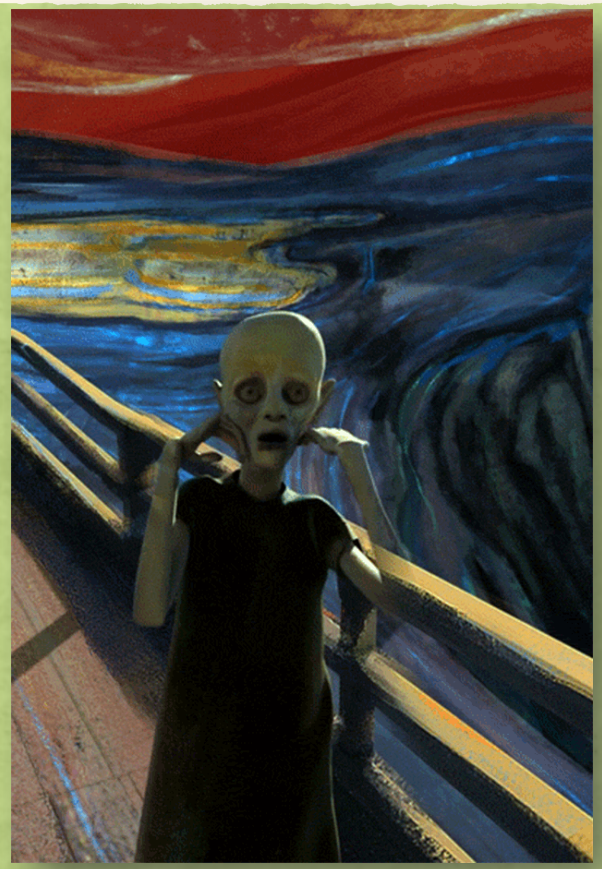
Edward Strieff

Holding of the Case

The evidence the officer seized as part of his search incident to arrest is admissible because the discovery of the arrest warrant attenuated the connection between the unlawful stop and the evidence seized from Strieff incident to arrest.

Estate of Armstrong v .Village of Pinehurst

(4th Cir. Jan. 11, 2016) 810 F.3d 892



The use of a Taser as a pain compliance device in response to resistance that does not raise a risk of immediate danger (apart from the fact of resistance alone) is unreasonable force in violation of the Fourth Amendment.

NOTE: The *Armstrong* decision applies in the five states in the Fourth Circuit: North Carolina, South Carolina, Maryland, Virginia, and West Virginia. The decision is not binding in the Ninth Circuit, but it would be highly persuasive in this circuit.

Holding of the Case

Taser use is unreasonable force when used in response to resistance that does not raise a risk of immediate danger.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