

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Petitioner,

v.

randy j. sutherby,

Respondent.

NO. 80169-0

EN BANC

Filed April 9, 2009

STEPHENS, J.—A jury convicted Randy Sutherby of first degree child rape, first degree child molestation, and 10 counts of possession of depictions of minors engaged in sexually explicit conduct, also known as child pornography. At sentencing, the trial court consolidated five of the child pornography counts into two counts, on the ground that the proper unit of prosecution was per minor depicted, and some of the counts related to different images of the same minor. Sutherby appealed, arguing that he should be sentenced on only one count of possession of child pornography and that his attorney was ineffective in failing to seek a severance of the child rape and molestation charges from the child pornography charges.

Sutherby subsequently filed a personal restraint petition raising the same claims of ineffective assistance of counsel, which the Court of Appeals consolidated with the appeal.

The Court of Appeals agreed with Sutherby that he should have been charged with only one count of possession of child pornography and held it was reversible error to allow the mother's testimony. The court ordered a new trial on the child rape and child molestation charges and remanded for resentencing on one count of possession of child pornography. The Court of Appeals did not address the severance issue.

We affirm the Court of Appeals, though in part on different grounds. We agree that the proper unit of prosecution is one for Sutherby's possession of child pornography and remand for resentencing on a single count. We further hold that it was ineffective assistance of counsel for Sutherby's trial attorney to fail to move for a severance. Accordingly, we reverse the convictions for child rape and child molestation and remand for a new trial.

FACTS AND PROCEDURAL HISTORY

The State offered the following facts at trial. On December 20, 2004, five year old "L.K." stayed with her paternal grandfather, Randy Sutherby, and his wife in Grays Harbor for two nights. On December 27, L.K. told her mother that on the second night she stayed at Sutherby's, he crawled into her bed, got under the blankets, and poked his finger into her vagina. L.K.'s mother immediately took L.K. to the doctor's office, where the doctor found injuries that were consistent with

L.K.'s description of the events, though the doctor noted the possibility of other causes of L.K.'s injuries. Soon after, L.K.'s mother contacted child protective services and L.K. recounted the same events to an interviewer for the Benton County Prosecuting Attorney's Office. Two weeks after the alleged assault, another healthcare professional examined L.K., but the results were inconclusive.

On March 2, 2005, Sutherby was arrested at his home. Sutherby waived his *Miranda*¹ rights and answered questions about the incident, denying any wrongdoing. With Sutherby's consent, officers seized and searched two personal computers from his home. Investigators found several files containing pictures of children engaged in sexually explicit conduct. Upon further questioning, Sutherby admitted that he looked at child pornography and had sexual fantasies about children, but said he never acted on those fantasies.

By amended information, Sutherby was charged with one count of first degree rape of a child, one count of first degree child molestation, and 10 counts of possession of depictions of minors engaged in sexually explicit conduct. At one point in the pretrial proceedings, the trial court inquired about the possibility of severing the two types of charges. The State argued that the counts were "intertwined" because proof that Sutherby viewed child pornography was probative of his sexual motivation in touching L.K. Report of Proceedings (RP) (June 6, 2005) at 153. Sutherby's attorney never moved for a severance.

At trial, L.K.'s mother testified without objection that she could tell when

¹ *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

L.K. was lying because she “tries not to smile, but makes a half smile.” RP (Nov. 1, 2005) at 34. She said L.K. did not smile when she talked about the incident involving Sutherby. During closing arguments, the prosecutor argued that Sutherby’s possession of the pornographic material proved that he molested his granddaughter, stating that the child pornography “shows his motive; why he touched [L.K.] It shows his intent. He is a predator that went over the line and we are here to hold him responsible today.” RP (Nov. 3, 2005) at 398.

The jury convicted Sutherby on all counts. At sentencing, the trial court determined that the unit of prosecution for possession of child pornography was per minor depicted. Accordingly, the judge combined the counts representing images of the same minor and those he could not clearly identify as depicting different minors, and sentenced Sutherby on seven counts of possession of child pornography. The trial court rejected defense counsel’s argument that *Blakely*² required a jury to determine the number of minors depicted in the images.

Sutherby appealed, arguing that (1) his attorney’s failure to move for a severance constituted ineffective assistance of counsel, (2) it was manifest constitutional error to allow testimony from the mother that her daughter was telling the truth about the rape, (3) his attorney’s failure to object to the impermissible testimony constituted ineffective assistance of counsel, (4) the proper unit of prosecution on the possession charge is one count per possession, and (5) the trial judge violated *Blakely* by making factual findings as to which minors were depicted

² *Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004).

in each image in order to determine the unit of prosecution. Sutherby subsequently filed a personal restraint petition (PRP) raising the same claims of ineffective assistance of counsel, which the Court of Appeals consolidated with the appeal.

The Court of Appeals reversed Sutherby's convictions for child rape and child molestation, and remanded for retrial on those charges and resentencing on a single count of possession of child pornography. *State v. Sutherby*, 138 Wn. App. 609, 618, 158 P.3d 91 (2007). We granted review. *State v. Sutherby*, 162 Wn.2d 1018, 178 P.3d 1034 (2008).

ANALYSIS

Two issues are dispositive of this appeal: (1) what is the proper unit of prosecution for possession of child pornography under former RCW 9.68A.070 (1990), and (2) did Sutherby receive ineffective assistance of counsel due to his trial attorney's failure to seek a severance of the child rape and molestation charges from the possession of child pornography charges? Because these issues can be resolved on Sutherby's direct appeal, it is unnecessary to reach his PRP.³

Unit of Prosecution

Sutherby maintains that he should be sentenced on only one count of possession of child pornography, as the unit of prosecution is per possession, not per image or per minor. With respect to determining the proper unit of prosecution, our review is de novo. *State v. Ose*, 156 Wn.2d 140, 144, 124 P.3d 635 (2005)

³ The State moved to strike the declaration of attorney Todd Maybrow, filed in support of Sutherby's PRP. Because we resolve this case on direct appeal and do not reach the PRP, the State's motion is denied as moot.

(citing *State v. Graham*, 153 Wn.2d 400, 404, 103 P.3d 1238 (2005)).

The Fifth Amendment to the United States Constitution and article I, section 9 of the Washington State Constitution protect a defendant from being punished more than once for the same offense. See *State v. Gocken*, 127 Wn.2d 95, 100, 896 P.2d 1267 (1995). Both double jeopardy clauses prohibit multiple convictions under the same statute if the defendant commits only one unit of the crime. *Ose*, 156 Wn.2d at 144 (quoting *State v. Tvedt*, 153 Wn.2d 705, 710, 107 P.3d 728 (2005)). We have previously noted that the state constitutional rule against double jeopardy provides the same scope of protection as the federal constitutional rule. *Gocken*, 127 Wn.2d at 107.

Ultimately, analyzing the unit of prosecution is an issue of statutory construction and legislative intent. *State v. Adel*, 136 Wn.2d 629, 634, 965 P.2d 1072 (1998). To determine legislative intent, we look to the plain meaning of the applicable statute, which is derived from the language of the statute. *State v. Westling*, 145 Wn.2d 607, 610, 40 P.3d 669 (2002). We construe statutes to effect their purpose and avoid unlikely or absurd results. *State v. Neher*, 112 Wn.2d 347, 351, 771 P.2d 330 (1989). If a statute does not clearly and unambiguously identify the unit of prosecution, then we resolve any ambiguity under the rule of lenity to avoid ““turning a single transaction into multiple offenses.”” *Adel*, 136 Wn.2d at 634-35 (quoting *Bell v. United States*, 349 U.S. 81, 84, 75 S. Ct. 620, 99 L. Ed. 905 (1955)).

The first question is what act or course of conduct has the legislature

proscribed? *State v. Root*, 141 Wn.2d 701, 706, 9 P.3d 214 (2000); *Adel*, 136 Wn.2d at 634. Former RCW 9.68A.070 provided: “[a] person who knowingly possesses visual or printed matter depicting a minor engaged in sexually explicit conduct is guilty of a class C felony.” From the text of the statute it is clear that the proscribed conduct is the *possession* of child pornography. The statute’s structure is similar to the Mann Act, 18 U.S.C. § 2421 (1949), at issue in *Bell*, which stated: “‘Whoever knowingly transports . . . any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose . . . [s]hall be fined not more than \$5,000 or imprisoned not more than five years, or both.’” *Bell*, 349 U.S. at 82 (second alteration in original) (quoting 18 U.S.C. § 2421). In *Bell*, the United States Supreme Court held that the Fifth Amendment double jeopardy clause allowed only a single conviction for *transporting*, regardless of the number of women transported at the same time. *Id.* at 82-83.

The textual similarity to the Mann Act is not conclusive evidence of the intended unit of prosecution, however, because “[v]isual or printed matter” for purposes of former RCW 9.68A.070 is further defined as “any photograph or other material that contains a reproduction of a photograph.” Former RCW 9.68A.011(2) (2002). Sutherby notes that “matter” is ordinarily considered a collective noun. It is defined as a “material substance of a particular kind or for a particular purpose.” Webster’s Third New International Dictionary 1394 (2002). Based on this definition, Sutherby argues that possession of any amount of that “particular kind” (the child pornography) is one offense. In response, the State focuses on the

definition of “visual or printed matter” as “*any* photograph or other material.” According to the State, “any” is plainly singular and requires that each separate photograph or image be a separate unit of prosecution. Sutherby counters that “any” is collective and means everything, regardless of the quantity, just as under the Mann Act. *See Bell*, 349 U.S. at 83.

While the Court of Appeals recognized that the debate here centers on the definition of “any,” it found no clear legislative intent as to the unit of prosecution. *Sutherby*, 138 Wn. App. at 615. The court noted that the word “any” has multiple, conflicting definitions, including (1) one; (2) one, some, or all regardless of quantity; (3) great, unmeasured, or unlimited in amount; (4) one or more; and (5) all. *Id.* at 614 (citing Webster’s Third New International Dictionary 97 (1976)). Based on these definitions, the legislature could have intended to ban (1) one photograph or other material; (2) one, some, or all photographs or other material, regardless of quantity; or (3) one or more photographs or other material. *Id.* at 615. Because it concluded the statute is ambiguous, the Court of Appeals held that the rule of lenity applies; therefore Sutherby’s violation of the statute by possessing multiple offending materials at the same time in the same place is subject to only one conviction. *Id.*

We agree with the conclusion of the Court of Appeals that the proper unit of prosecution is one. This is consistent not only with the expansive dictionary definitions of “any” and the rule of lenity but also with our prior construction of the term “any” in other contexts.

In *Rosenoff v. Cross*, we analyzed the requirement that applications for shipments by druggists shall state “that the applicant . . . ha[s] not been theretofore convicted of any violation of the laws relating to intoxicating liquor of the state of Washington.” 95 Wash. 525, 527, 164 P. 236 (1917) (quoting 2 Rem. 1915 Code & Stat. § 6262-17). We noted the words “theretofore” and “any” have broad and inclusive connotations; thus, we held that the provision includes violations of all laws, whether currently in effect or not. *Id.* at 528.

In *State ex rel. Evans v. Brotherhood of Friends*, we addressed the meaning of article II, section 24 of the Washington Constitution, which reads: “[t]he legislature shall never authorize any lottery, or grant any divorce.” 41 Wn.2d 133, 144, 247 P.2d 787 (1952) (quoting Wash. Const. art. II, § 24). We held that the provision is unambiguously phrased in the broadest sense, and in that context the meaning of “any” is equivalent to “all” or “every.” *Id.* at 145.

State v. Smith required us to interpret two statutes governing who may move for revision of a ruling by a juvenile court commissioner. 117 Wn.2d 263, 268-69, 814 P.2d 652 (1991). “In any judicial district having a court commissioner, the court commissioner shall have the power, authority, and jurisdiction . . . subject to motion or demand by any party within ten days from the entry of the order or judgment.” *Id.* (quoting former RCW 13.04.021(1) (1979)). “All of the acts and proceedings of court commissioners hereunder shall be subject to revision by the superior court. Any party in interest may have such revision upon demand made by written motion . . . within ten days after the entry of any order or judgment of the

court commissioner.” *Id.* at 269 (quoting former RCW 2.24.050 (1971)). We held that the plain language of the statutes unambiguously entitled every party to move for revision. *Id.* at 271. We further stated that if the phrase “any party” was not sufficiently clear, Washington courts have repeatedly construed the word “any” to mean “every” or “all.” *Id.* at 271 & n.8.

Westling is particularly instructive. There, we interpreted the unit of prosecution for a statute prohibiting a person from “knowingly and maliciously caus[ing] a fire or explosion which damages . . . any . . . automobile.” 145 Wn.2d at 611 (quoting RCW 9A.48.030(1)). Citing to *Smith*, we held that “any” means “every” and “all,” and one conviction is appropriate where one fire damages multiple automobiles. *Id.* at 611-12.

Court of Appeals decisions are to the same effect. *S.L. Rowland Construction Co. v. Beall Pipe & Tank Corp.* involved interpreting a construction contract between two private parties in which the contractor “specifically waives claims for damages for any hindrance or delay.” 14 Wn. App. 297, 305-06, 540 P.2d 912 (1975). Citing to *Rosenoff* and *Evans*, the Court of Appeals stated that the word “any” is a “broad and inclusive term with respect to subject matter.” *Id.* at 306. The court held that the language was broad enough to encompass all delays, including those caused by a nonparty. *Id.* at 306-07.

In *Jong Choon Lee v. Hamilton*, the Court of Appeals analyzed a statute governing commitment and treatment of those acquitted of crimes by reason of insanity. 56 Wn. App. 880, 785 P.2d 1156 (1990). That statute stated that

“[w]henver any person has been committed under any provision of this chapter . . . such commitment . . . cannot exceed the maximum possible penal sentence for any offense charged for which he was acquitted by reason of insanity.” *Id.* at 883-84 (alterations in original) (emphasis omitted) (quoting former RCW 10.77.020(3) (1974)). The Court of Appeals held that commitment “under any provision of this chapter” included both pre- and postacquittal commitment because “Washington courts have repeatedly construed the word “any” to mean “every” and “all.”” *Id.* at 884 (quoting *State v. Harris*, 39 Wn. App. 460, 463, 693 P.2d 750 (1985)).

Given the context of the language used in the child pornography statute, and our repeated construction of “any” as including “every” and “all,” we hold that the proper unit of prosecution under former RCW 9.68A.070 is one count per possession of child pornography, without regard to the number of images comprising such possession or the number of minors depicted in the images possessed.⁴ We remand for resentencing of Sutherby on a single count of possession of child pornography.⁵

⁴ While there is some appeal to emphasizing the victimization of children, former RCW 9.68A.070 is not clearly and unambiguously written to identify the subjects of the prohibited material as the unit of prosecution. There is no doubt the legislature was concerned about the abuse and exploitation of children when it enacted chapter 9.68A RCW. *See* former RCW 9.68A.001 (1984). However, the purpose statement provides no information about the level at which the legislature intended to set penalties for the specific crime of possession of matter depicting a minor engaged in sexually explicit conduct. *See United States v. Reedy*, 304 F.3d 358, 367 n.12 (5th Cir. 2002) (noting the statute’s purpose provides no information about the level at which it sets penalties). Further, using each child victim to define the unit of prosecution appears inconsistent with former RCW 9.68A.110(5) (1992), which provided that “[i]n a prosecution under RCW 9.68A.070, the state is not required to establish the identity of the alleged victim.”

⁵ Two Court of Appeals opinions are at odds with our conclusion. In *State v. Gailus*, the Court of Appeals held that the proper unit of prosecution for possession of child pornography was each separate digital file even though the files were stored on one

Counsel's Failure To Make a Severance Motion

Sutherby seeks reversal of his convictions for child rape and child molestation based on his trial attorney's failure to move for severance of the child pornography counts from these charges. A claim of ineffective assistance of counsel presents a mixed question of fact and law reviewed de novo. *In re Pers. Restraint of Fleming*, 142 Wn.2d 853, 865, 16 P.3d 610 (2001).

To prevail on an ineffective assistance of counsel claim, the defendant must show that (1) defense counsel's representation was deficient in that it fell below an objective standard of reasonableness and (2) the deficient performance prejudiced the defendant. *State v. McFarland*, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995) (applying two-prong test of *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)). We presume counsel is effective, and the defendant must show there was no legitimate strategic or tactical reason for counsel's action. *Id.* at 335.

Severance of charges is important when there is a risk that the jury will use the evidence of one crime to infer the defendant's guilt for another crime or to infer a general criminal disposition. *State v. Russell*, 125 Wn.2d 24, 62-63, 882 P.2d 747 (1994) (citing *State v. Watkins*, 53 Wn. App. 264, 268, 766 P.2d 484 (1989)). The joinder of charges can be particularly prejudicial when the alleged crimes are sexual compact disc. 136 Wn. App. 191, 199, 147 P.3d 1300 (2006). Similarly, in *State v. Reeves*, the Court of Appeals concluded that the defendant could be charged for each photograph depicting a minor engaged in sexual conduct contained in the same notebook. 144 Wn. App. 422, 424, 182 P.3d 491 (2008). To the extent that *Gailus* and *Reeves* conflict with our interpretation of former RCW 9.68A.070, we disapprove those decisions.

in nature. *See State v. Saltarelli*, 98 Wn.2d 358, 363, 655 P.2d 697 (1982). In this context there is a recognized danger of prejudice to the defendant even if the jury is properly instructed to consider the crimes separately. *See State v. Harris*, 36 Wn. App. 746, 750, 677 P.2d 202 (1984).

The record in this case reflects no legitimate strategic or tactical reason for Sutherby's counsel's failure to move for a severance. The State's argument suggesting a tactical choice presupposes that evidence of the possession of child pornography would have been allowed in any separate trial on the child rape and molestation charges, but, as discussed below, this is a debatable premise. There is no indication of any possible advantage to the defendant in having a joint trial on all charges, given the State's announced intent to use the pornography counts to show Sutherby's predisposition to molest children. Even the trial judge appeared to expect a severance motion because he asked at a pretrial hearing if severance was a possibility. We hold that counsel's failure to move for severance meets the deficiency prong.

Sutherby must also demonstrate prejudice, first by showing that a severance motion would likely have been granted. And second, he must show that, had a severance been granted, there is a reasonable probability that the jury would not have found him guilty of child rape and molestation beyond a reasonable doubt.

Here, the trial judge likely would have granted a severance under the relevant considerations, with the result that the outcome at a separate trial on child rape and molestation charges would likely have been different.

To determine whether to sever charges to avoid prejudice to a defendant, a court considers “(1) the strength of the State’s evidence on each count; (2) the clarity of defenses as to each count; (3) court instructions to the jury to consider each count separately; and (4) the admissibility of evidence of the other charges even if not joined for trial.” *Russell*, 125 Wn.2d at 63.

First, while Sutherby concedes the State’s evidence on the child pornography charges was strong, Brief of Appellant at 20, the evidence proving the child rape and molestation charges was weaker. The evidence consisted of the trial testimony and prior statements of L.K., who was six years old at the time of trial, and medical evidence that was consistent with abuse, but which the medical professionals acknowledged did not alone support the conclusion that sexual abuse occurred.

Second, Sutherby offered separate defenses for the child rape and molestation charges and the possession of child pornography charges. With respect to the child rape and molestation charges, Sutherby claimed his injured finger might have been near L.K.’s vaginal area when he picked her up, but he never poked her, and she might be confusing the incident involving Sutherby with an earlier incident involving her six-year-old uncle. RP (Nov. 3, 2005) at 413. With respect to the possession of child pornography charges, Sutherby maintained he unintentionally acquired the images when downloading adult pornography. The State attacked the credibility of Sutherby’s defense to the pornography charges and argued that it called into question the credibility of his defense to the child rape and molestation charges.

Third, though the jury was instructed to decide each count separately,⁶ the

State consistently argued that the presence of child pornography on Sutherby's computers proved he sexually abused his granddaughter, stating it "shows his motive; why he touched L.K." *Id.* at 398. The State further argued:

And how do you know that this man has a problem with sex with children and he fantasized about it and this was a present for him? You saw all, not all of it, but you saw a representative sample from the child pornography on that screen. We know he is predisposed to touching children in a sexual manner.

Id. at 397. Additionally, there was no limiting instruction directing the jury that the evidence of one crime could not be used to decide guilt for a separate crime.

Fourth, had the possession of child pornography charges been severed, it is highly likely that evidence of Sutherby's possession of the child pornography would have been excluded in a separate trial for child rape and molestation. The State argues that such evidence is admissible to show the absence of mistake or accident. However, the few cases in which evidence of possession of pornography was allowed in a trial for sexual assault involved pornography evidence that was used to show a sexual desire for the particular victim. *See State v. Ray*, 116 Wn.2d 531, 547, 806 P.2d 1220 (1991); *State v. Ferguson*, 100 Wn.2d 131, 133-35, 667 P.2d 68 (1983); *State v. Medcalf*, 58 Wn. App. 817, 822-23, 795 P.2d 158 (1990).⁷ As

⁶ Jury instruction 3 stated: "A separate crime is charged in each count. You must decide each count separately. Your verdict on one count should not control your verdict on any other count." Clerk's Papers at 65.

⁷ The State also relies on *State v. Bouchard*, 31 Wn. App. 381, 386, 639 P.2d 761 (1982), which found no abuse of discretion in the trial court's admission of evidence of the defendant's prior sexual abuse of his son to rebut a claim of accident in a prosecution for the abuse of his granddaughter. *Bouchard* predates our decisions in *Ferguson* and *Ray* and appears inconsistent with our analysis; accordingly, it should no longer be regarded as authoritative on this issue.

offered here, the evidence would merely show Sutherby's predisposition toward molesting children and is subject to exclusion under ER 404(b).

ER 404(b) prohibits the use of "other acts" evidence to prove the character of a person in order to show that he acted in conformity with that character. *State v. Smith*, 106 Wn.2d 772, 775, 725 P.2d 951 (1986). Even evidence that is otherwise relevant can be excluded if it is highly prejudicial. *Id.* at 776. We have previously cautioned about the admissibility of other sex crimes, warning that "[c]areful consideration and weighing of both relevance and prejudice is particularly important in sex cases, where the potential for prejudice is at its highest." *State v. Coe*, 101 Wn.2d 772, 780-81, 684 P.2d 668 (1984). In cases where admissibility is a close call, "the scale should be tipped in favor of the defendant and exclusion of the evidence." *Smith*, 106 Wn.2d at 776 (quoting *State v. Bennett*, 36 Wn. App. 176, 180, 672 P.2d 772 (1983)).

Based on the inflammatory nature of the crimes, we think it likely that the evidence of the child pornography would not have been admissible at a separate trial for child rape and molestation. Neither would the evidence of the child rape and molestation have been admissible at a separate trial for possession of child pornography. A defendant must be tried for the offenses charged, and evidence of unrelated conduct should not be admitted unless it goes to the material issues of motive, intent, absence of accident or mistake, common scheme or plan, or identity. *State v. Goebel*, 36 Wn.2d 367, 368-69, 218 P.2d 300 (1950).

We hold that Sutherby has demonstrated ineffective assistance of counsel

based on his trial attorney's failure to seek severance of the charges. The failure to make a severance motion fell below the objective standard of reasonableness in light of all the circumstances. There is a reasonable probability that the trial court, which had inquired about a possible severance, would have granted the motion, and that the outcome at a separate trial on the child rape and molestation charges would have been different. Accordingly, we reverse Sutherby's convictions for child rape and molestation and remand for retrial.⁸

CONCLUSION

We hold that the proper unit of prosecution for possession of child pornography under former RCW 9.68A.070 is one count per possession, rather than per image or photograph or per minor depicted. We remand for resentencing on a single count of possession of child pornography. We reverse Sutherby's convictions for child rape and child molestation based on ineffective assistance of counsel in failing to seek severance of the charges and remand for further proceedings. Because of our resolution of the case, it is unnecessary to address Sutherby's additional claims. We dismiss Sutherby's personal restraint petition as moot.

AUTHOR:

Justice Debra L. Stephens

WE CONCUR:

⁸ Sutherby acknowledges that he cannot demonstrate prejudice with respect to the child pornography charges and does not seek reversal of those charges based on ineffective assistance of counsel. Br. of Appellant at 20; Reply Br. of Appellant at 25.

Chief Justice Gerry L. Alexander

Justice Susan Owens

Justice Charles W. Johnson

Justice Richard B. Sanders

Justice Tom Chambers
