

## FAITH AND JUDGING \*

CHIEF JUDGE STEPHEN J. MURPHY, III \*\*

Thanks to the Thomas More Society of the University of Notre Dame Law School. I know there are a lot of Catholic law students here. I also know there are students of other faiths—and whatever brings you here, I'm glad you're here, and I'm glad we'll have a chance to spend an hour together.

I wanted to talk about judging as a Catholic, which I thought would be appropriate for this group, especially on Ash Wednesday. And I want to start by talking about a non-Catholic: Avern Cohn.

Avern Cohn was my colleague, a federal court judge in Detroit for close to 40 years—probably more than 40. He died at 96 and was on the bench until the very end. As an AUSA, I tried cases in front of him, and he was a difficult judge to appear before—very bright, very demanding, and not very patient with lackluster work.

But when I became his colleague, everything changed. We became very good friends. I sat next to him in the courthouse from the time I started until the time he died. We were neighbors, and we talked often. When he died, I was sad to lose a friend, and our court was diminished by the loss of a true intellectual giant of the law.

I went to his funeral at the Ira Kaufman Funeral Home on the west side of Detroit. He was buried as an active, faithful, longtime member of the Jewish faith. One of the speakers, Eugene Driker, said, “Avern Cohn defined what it meant to be a Jewish judge.”

And that's probably true. Avern Cohn observed the laws of Judaism, was faithful in his worship, and never hesitated to talk about religious matters with me.

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\* From his speech delivered at Notre Dame Law School to the Society of St. Thomas More, Wednesday, February 18, 2026.

\*\* Stephen J. Murphy, III, joined the United States District Court for the Eastern District of Michigan after presidential appointment and confirmation by the United States Senate on June 24, 2008. He assumed the bench on August 18, 2008. Judge Murphy also served with the United States Department of Justice for more than twelve years, including as United States Attorney for the Eastern District of Michigan. Prior to his service as United States Attorney, Judge Murphy was an attorney with the General Motors Legal Staff in Detroit. A 1987 graduate of the St. Louis University School of Law (where he edited the law review), Judge Murphy has also been active in legal and community affairs.

Judge Murphy is also an experienced appellate lawyer who, while in private practice, handled indigent criminal appointments in the United States Court of Appeals. He is a published legal author and he has served as an adjunct professor at several law schools in Michigan and Ohio where he taught Business/White Collar Crimes, Evidence, Tax Fraud and Trial Practice.

So, I started thinking: Am I a Catholic judge? If I were buried tomorrow, would someone say, “He’s a Catholic judge?”

Probably not. Those aren’t typically the kinds of remarks made at Catholic funeral Masses. But I do think I’m a Catholic judge.

I went to confession yesterday at the Capuchin Monastery because today starts Lent, and I wanted a fresh start. I went to Mass last Sunday at my parish, St. Paul. I’ll fast, I’ll celebrate Easter, and maybe I’ll give up cigars or caffeine for Lent. I went to Catholic grade school, had eleven years of Jesuit education through law school, and was raised by Catholic parents. I’m a practicing Catholic.

So, the question becomes: How does being a Catholic inform my judging? Is there any difference between how a Catholic judge approaches the law and how a non-Catholic—or non-believing—judge does?

Well, I don’t enforce Catholic morals in my position. I don’t favor Catholic litigants. I don’t rely on Catholic doctrine when deciding cases. By and large, I set my religion—my beliefs and practices—at the courtroom door. And I’m duty-bound to do that.

When I took my oath in 2008, I swore to be faithful to the Constitution and laws of the United States without favor to any party or institution. I have a secular job and a secular obligation to decide cases fairly.

But I don’t reject or separate myself from my Catholic upbringing, thought, or education as a judge.

At Marquette University, I was privileged to take moral philosophy and theology from Catholic priests—Father Teske, Father Murphy, Father Keefe. Those weren’t secular courses, but they were deeply informative about the foundations of morality: how to be a good person, how to pursue salvation, and how to live out one’s faith.

Now, the federal bench is not a place to proselytize or preach. Litigants deserve an independent judge—one free from religious bias or favoritism, whose judgment is not clouded. And I would be concerned about any judge who allowed those kinds of biases to influence their decisions. As a Catholic, I wouldn’t want to appear before an anti-Catholic judge—or any judge relying on something outside the law and sound judgment. That would undermine fairness.

So I try to be fair. I try to be straightforward. I try to stay in the middle when applying the law. I do my work the same way a Catholic taxi driver, doctor, or stockbroker might—professionally, neutrally, but informed by a moral background shaped in part by faith.

Let me give you an example.

When I became a judge in 2008, *Roe v. Wade* was the law of the land. Under it, women had a constitutional right to choose abortion. That’s not the Catholic position. The Church teaches that abortion is a grave sin. So if a case had come before me then—say a hospital denied a woman an abortion in violation of her constitutional rights—I would have had to rule against the hospital. I would have followed the law. That would have put me in tension with my personal beliefs. But I swore an oath to uphold the law, and I would have done so.

Today, after *Dobbs*, the analysis is different. But the principle remains: a judge follows the law.

Now, let me talk about a case I actually handled.

In 2008, less than six months after I took the bench, I had a case involving a woman named Chelsea Barker. She was in the Wayne County Jail while pregnant and claimed she received no medical care despite serious complications.

After her release, she gave birth to a child with severe defects and filed a lawsuit under 42 U.S.C. § 1983. The county argued that the child, being in utero at the time, was not a “person” under the Fourteenth Amendment and had no constitutional rights.

I denied summary judgment. I thought the argument didn’t make sense—especially given how far along the pregnancy was. In my view, the child should have the same protections as a newborn injured under similar circumstances.

Would another judge have ruled differently? Maybe. But I made the decision based on my understanding of the law, informed in part by my moral framework. And I’m comfortable with that.

Finally, I want to talk about something that’s been on my mind a lot lately: sentencing.

For years, I’ve sentenced defendants—often young, disadvantaged men—to long prison terms. And over time, it all started to look the same. I realized I didn’t have much perspective. I’m suburban. I was a prosecutor. I don’t come from the communities I was judging. So I decided to do something consistent with my faith: I got involved in prison ministry.

I spent time in federal prison in Milan, Michigan, attending Mass and leading Bible study. It was a powerful experience. I learned more about the people I was sentencing than I ever could from the bench.

More recently, I attended an interfaith service at the Wayne County Jail. I sat face-to-face with about thirty inmates. At one point, a man raised his hand and said, “Hey—that’s my old judge.”

That got my attention.

At the end of the service, a former inmate spoke—a man who had spent 28 years in prison. He talked about how faith gave his life purpose, even when he thought he would never get out. And those men were locked in on him. Because he was telling their story.

Walking out of that room, I felt proud—proud to be a judge, proud to be a Catholic, and grateful for the experiences that shaped me.

What I learned is this: faith often lives most strongly among the marginalized. And while I sometimes struggle in my own faith, many of these men don’t—because they rely on it completely. That experience has changed how I see my work.

Being a Catholic judge doesn’t mean applying religious doctrine in the courtroom. It means bringing a moral awareness to the job—an understanding of people, responsibility, and justice.

And for me, that has been a gift.