



NCSC

National Center for State Courts

Center for Judicial Ethics

Ethics Awareness Month – March 2022

Weekly Tip #1

In response to a judge’s argument that he had “intended to be funny, not rude” when he made “seemingly shirty and politically charged comments to a defendant in his courtroom,” the Utah Supreme Court stated: “It is an immutable and universal rule that judges are not as funny as they think they are. If someone laughs at a judge’s joke, there is a decent chance that the laughter was dictated by the courtroom’s power dynamic and not by a genuine belief that the joke was funny.” *In re Kwan*, 443 P.3d 1228 (Utah 2019).

Judges should second-guess themselves when they feel the very human temptation to tell a joke and should err on the side of being thought too sobersided rather than risking ill-conceived humor that may cause others to believe that the judge is not taking the proceedings and participants seriously and is not acting impartially, whatever the judge’s intent.

Examples of judicial discipline cases in which “just joking” did not excuse the offense:

- A judge suggested several times as a “joke,” that a person appearing before him was about to be remanded to custody. [Inquiry Concerning Velasquez](#) (California Commission on Judicial Performance 2007).
- A judge for no apparent reason asked a potential juror when she had last “smoked a joint or something.” *In re Moore*, 626 N.W.2d 374 (Michigan 2001).
- A judge repeatedly joked about a defendant’s comments about his female attorney’s physical appearance. [In the Matter of Caplicki](#) (New York State Commission on Judicial Conduct 2007).
- A judge posted “legal tips of the day” on Facebook “designed to get a laugh and to make people think about life choices.” [Webb](#) (Tennessee Board of Judicial Conduct 2021).