

MCDERMOTT, APPELLEE, v. OHIO STATE UNIVERSITY, APPELLANT.

[Cite as *McDermott v. Ohio State Univ.*, 2024-Ohio-1227.]

*Court of appeals' judgment reversed on the authority of Smith v. Ohio State Univ.
and cause remanded.*

(No. 2023-0202—Submitted March 26, 2024—Decided April 3, 2024.)

APPEAL from the Court of Appeals for Franklin County,
No. 22AP-76, 2022-Ohio-4780.

{¶ 1} The judgment of the Tenth District Court of Appeals is reversed on the authority of *Smith v. Ohio State Univ.*, 176 Ohio St.3d 289, 2024-Ohio-764, 247 N.E.3d 288, and the cause is remanded to that court for it to determine whether discretionary immunity applies in this case.

KENNEDY, C.J., and FISCHER, DEWINE, and DETERS, JJ., concur.

STEWART, J., concurs based only on stare decisis.

DONNELLY and BRUNNER, JJ., dissent for the reasons set forth in Justice Brunner's dissenting opinion in *Smith*.

Merriman Legando Williams & Klang, L.L.C., Drew Legando, Tom Merriman, and Edward S. Jerse, for appellee, Morgan McDermott.

Squire Patton Boggs (U.S.), L.L.P., John R. Gall, Traci L. Martinez, Christopher F. Haas, E. Joseph D'Andrea, Elizabeth P. Helpling, and Roger M. Gold, for appellant.
