

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *McDermott v. Ohio State Univ.*, Slip Opinion No. 2024-Ohio-1227.]

NOTICE

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SLIP OPINION NO. 2024-OHIO-1227

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

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *McDermott v. Ohio State Univ.*, Slip Opinion No. 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.*, __ Ohio St.3d __, 2024-Ohio-764, __ N.E.3d __, 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.

SUPREME COURT OF OHIO

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.
