EWING, FEDERAL SECURITY ADMINISTRATOR, *v.* GARDNER, EXECUTOR.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.

No. 621. Decided May 7, 1951.

Under 28 U. S. C. § 2412 (a), costs may not be assessed against the Federal Security Administrator in a suit brought against him in his official capacity, when there is no express statutory authority for the allowance of such costs.

185 F. 2d 781, reversed in part.

In a suit against the Federal Security Administrator in his official capacity, the District Court awarded a judgment and assessed costs against the Administrator. 88 F. Supp. 315. The Court of Appeals affirmed. 185 F. 2d 781. Certiorari granted and judgment *reversed,* insofar as it relates to the taxation of costs against petitioner.

Solicitor General Perlman for petitioner.

Theodore F. Gardner for respondent.

PER CURIAM.

The petition for writ of certiorari is granted. The sole question presented by the petition is the validity of the affirmance by the Court of Appeals of the judgment rendered against the petitioner for costs by the District Court. There being no express statutory authority for the allowance of costs to the respondent, such an award of costs is precluded by 28 U. S. C. § 2412 (a). The judgment of the Court of Appeals, insofar as it relates to the taxation of costs against the petitioner, is therefore reversed.

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