

No: 19-6172

In the
Supreme Court of the United States

SAMANTHA RAJAPAKSE- Petitioner

v.

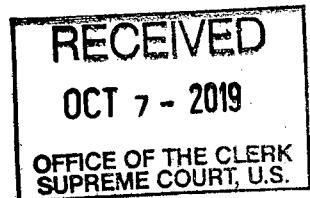
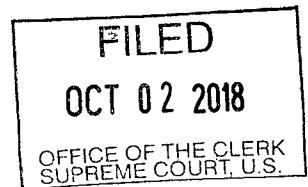
CREDIT ACCEPTANCE CORPORATION, et al- Respondents

~~ORIGINATOR~~
~~ORIGINATOR~~

On Petition for Writ of Certiorari
Sixth Circuit Court of Appeals

Petition for Writ of Certiorari

Samantha Rajapakse
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Question Presented

Does the courts have jurisdiction to give auto lenders immunity from the Consumer Protection Laws enacted by congress when evidence in the court records presents inconsistent, inaccurate payment histories, Fraud on the account, , establishing wrongful seizure under the Fourth Amendment of the United States Constitution.

List of Parties

Brett A. Roberts, Executive Officer/ Board of Credit Acceptance

Arthur Smith, Chief Analytics

Charles Pierce, Chief Legal Officer

Douglas W. Busk, Treasurer

Daniel A. Ualtowski, Chief Sales Officer

Kenneth S. Booth, Chief Financial Officer

John S. Soave, Chief Information Officer

Steven M. Jones, Chief Operation Officer

Sandy Pollack, Manager of Regulatory

Board of Credit Acceptance

Glenda Flanagan, Vice President, Senior Advisor, Whole Foods

Scott J. Vassalluzzo, Managing Member of Prescott General Partners, LLC

Thomas N. Tryforos, Private Investor

All parties mentioned are represented by appearance of Counsel Stephen W. King of King and Murray, LLC.

Related Cases

Rajapakse v. Credit Acceptance Corporation 2:16-cv-13144

Table of Contents

	<u>Page</u>
I. Petition for Writ of Certiorari	5
II. Opinion Below	5
III. Jurisdiction	5-6
IV. Authority	6-7
IV. Constitution and Statutory	7
V. Statement of Case	8-12
VI. Reason for Grant	12
A. The Courts action of a Private repossession turned The case into a federal action which violates Rajapakse's Fourth Amendment.....	12-13
B. Rights of Pro se Rajapakse to defend her Property Rights in the courts.....	13-14
C. Laws and Statues related to Auto Warranties.....	14-15
D. Furnisher furnishing information on Rajapakse's Credit report.	15-16
E. Affidavit and Evidence Supporting Credit Acceptance Deceptive history behavior	16-17
F. Moving Party Sought Summary Judgment Against Credit Acceptance for violations.....	17-18
CONCLUSION	18

Petition for Writ of Certiorari

Petitioner, Samantha Rajapakse, a consumer was denied the right to enter and ordered to pay the filing fees to appeal. The Sixth Circuit based the order on the district court Magistrate's Report and Recommendation. Rajapakse objected to the Report and Recommendation citing with supportive evidence the Magistrate departed from the laws the Consumer Protection Act as well as judicial misconduct, Rajapakse respectfully petitions this court for a Writ of Certiorari to review the judgment of the Sixth Circuit and the district Court.

Opinion Below

The Sixth Circuit has held the lower court decision Credit Acceptance was immune from being sued in court for violation of the Magnuson-Moss Act, intentionally violated the Fair Credit Report and Truth in Lending Act. The court discredited the laws and regulation, and the agency of the Consumer Financial Protection Bureau, related regulations furnisher accurate information on a consumer's credit and the right for a consumer to bring suit. The lower court allowed Credit Acceptance to wrongful seize/ wrongful repossess Rajapakse's vehicle with just the contract and two inconsistent payment histories and credit report to support the debt owed not validated.

JURISDICTION

This Court has jurisdiction under 28 U.S.C 1251 (a) and shall have original and exclusive jurisdiction of all controversies between two or more states. Petitioner, Samantha Rajapakse, consumer is located in the State of Tennessee and the property was located in Tennessee. Credit Acceptance Corporation and all parties are located in the State of Michigan. Tennessee does not allow pro se access through the courts through electronic-filing. Michigan allows pro se access filing for pro se to electronic filing.

AUTHORITY

Fuentes v. Shevin, 407 U.S. 67

Wadlington v. Credit Acceptance Corp.

Blum v. Yaretsky, 457 U.S. 991, 1004

Saucier v. Katz, 533 U.S. 194, 201

Middaugh v. City of Three Rivers, No. 15-1140

Harlow v. Fitzgerald, 457 U.S. 800, 818

Hensley v. Gassman, 693 F. 3d 681, 687

Streit v. Frieside Chrysler Plymouth, Inc. , 697 F. 2d. 193

U.S. v. Maze, 414, U.S. 395 94 S. Ct. 646 38 L. Ed. 2d 603

Wilbank v. Sec. of Health and Human Services, 847 F. 2d 301, 303

Matsushita Elec. Indus. Co v. Zenith Radio Corp.,
475 U.S. 574, 587 106 S. Ct. 1348, 89 L. Ed. 2d 538

Nixon v. Candon, 286 U.S. 73 52 S. Ct. 484 76 L. Ed 984

Pailko v. Connecticut,
302 U.S. 310, 325-326 [58 S. Ct. 149, 152, 82 L Ed. 288]

Morgan v. Church's Fried Chicken, 829 F. 2d 10-12

CONSTITUTION AND STATUTORY PROVISION

UNITED STATES CONSTITUTION FOURTH AMENDMENT

UNITED STATES CONSTITUTION FOURTEENTH AMENDMENT

STATUTORY

15 U.S.C§ 1601 Truth in Lending Act Z Regulation of auto loans

15 U.S.C §1601- §1692Fair Credit Reporting Act

15 U.S.C §1692i(a)(2) §1692k Fair Debt Collection Practice Act.

15 U.S.C §2300-§2301 Magnuson-Moss Act

18 U.S.C§ 1001

RULES

Federal Rule of Civil Procedure 56

DOCTRINE

Doctrine of Qualified Immunity

Due Process Clause

STATEMENT OF CASE

Petitioner, Samantha Rajapakse (*hereinafter as Rajapakse*) purchased a 2007 Chevy Trailblazer, January 7, 2014 from One Stop Auto Sales in Memphis, Shelby County Tennessee. The vehicle had a sticker showing an existing warranty. It was at the time of signing the warranty was a Vehicle Service Agreement (VSA) assigned to First Automotive as the company. The loan and warranty was assigned with Credit Acceptance Corporation (*hereinafter as Credit Acceptance*) in the amount of \$17,334.34, with payments starting February 7, 2014 for forty-eight months in the amount of \$361.00 a month. The warranty provided no additional paperwork provided by a third party company, dealer or Credit Acceptance as it related to details of the coverage. The dealer told Rajapakse the warranty covered bumper-to-bumper coverage and warranty was valid at any dealership or repair shop in the United States. Shortly after the sale of the Trailblazer, the check engine light came on and Rajapakse took the vehicle to have it serviced at a local dealership and was denied. She later took the vehicle to a repair shop and was denied as well. Without any proof of coverage, she contacted the dealer and Credit acceptance both informing Rajapakse the vehicle was covered by a warranty. Neither the dealer nor Credit Acceptance could not provide additional proof of existing coverage. Rajapakse paid out of pocket for the repairs and contacted Credit Acceptance in October, 2014, in locating the warranty for the vehicle for cancellation.

In October, 2014, after exhausting all means of contacting Credit Acceptance in seeking proof of coverage of the vehicle's warranty, Rajapakse demanded the amount financed for the warranty be canceled for non-delivery of service and the amount financed be adjusted amount and interest to reflect the new balance on the loan. Credit Acceptance refused cancellation of the warranty stating was coverage for the vehicle while not providing no documentation or claim number to show. Credit Acceptance responded stating the vehicle was covered but could not provide the name of the company nor any related documents to support coverage, only a number. Credit Acceptance informed Rajapakse in order to cancel the warranty to contact a toll free number and request a cancellation of the policy. Rajapakse contacted the number and was told to provide the company with a vin number to complete the cancellation process. Rajapakse provided the information related to the vehicle in processing the cancellation. Credit Acceptance never adjusted the account and continue to keep the fraudulent warranty on the loan.

In June, 2016, after the dispute issue going into its third year of the auto loan, prior to the expiration of the alleged warranty coverage, Credit Acceptance agreed to cancel the warranty and adjust the refund "pro rated" [Appendix] of the remaining coverage in the amount of \$150.00 and applied it as a rebate. Rajapakse stated she was entitled to a full refund of the warranty for non-delivery of the services nor the location of the warranty could not be found. Credit Acceptance stated again the vehicle was covered by a

warranty and Rajapakse never filed a claim against the warranty so therefore, she elected not to used the warranty. Credit Acceptance continue to send letters within the ten-day grace period on default of the auto loan showing the amount of the original loan as \$17,334.34 for the vehicle. Rajapakse continue to pay the \$361.00 the full amount while disputing the account.

Rajapakse made her final payment to Credit Acceptance in January, 2017 which made the total payments made over \$12,000.00. [Appendix] Credit Acceptance never sent any default letters on the loan and repeatedly told informed Rajapakse the loan was being process to send her the title of the vehicle. In January, 2017, while monitoring her credit, Rajapakse notice Credit Acceptance had been reporting the original loan amount as \$10,893.34 the same date as the loan was consummated. Rajapakse disputed with the three major credit bureaus and through the Consumer Financial Protection Bureau (hereinafter as CFPB) with supportive documents from Credit Acceptance the amount and the loan amount being reported. Experian, Transunion and Equifax removed Credit Acceptance account off Rajapakse's credit report. Credit Acceptance continue to place the account back with all three credit bureaus as the original loan as \$10,893.34. Rajapakse disputed the loan amount additional three more times with the credit bureaus and with CFPB and the credit bureaus removed the account off Rajapakse's credit. Transunion and Experian removed it completely, but due to Equifax later being breached, Credit Acceptance continue to furnish inaccurate information on Rajapakse's

credit reporting the original loan amount as \$10,892.34 and missing payments from January, 2014 to September, 2014. August, 2017 Counsel for Credit Acceptance Stephen W. King contacted Rajapakse when she relocated to Kansas to resolve the dispute Credit Acceptance would removed the loan off Rajapakse's Credit and provide her with a title. Credit Acceptance never provided the title. **[Appendix: N - Affidavit of Shaniece Harris]**

Credit Acceptance position has been stated they are not liable for the warranty because they do not service the warranty but can not provide any documentation (checks or payments) to a third party. In February, 2018 Credit Acceptance repossessed Rajapakse vehicle and her personal effects inside. The vehicle has not been located 2018 and in February, 2019, Counsel, Stephen W. King partial had the the contents inside the vehicle delivered directly to Rajapakse. Former Defendant, Robert Williams, **[Appendix: E]** Managing Member of One Stop Auto Sales testified by affidavit Credit Acceptance is the sole owner of the warranties sold to its customers and the warranties are attached to pre-select vehicles approved only by Credit Acceptance

Rajapakse filed summary judgement against Credit Acceptance on the original complaint and the amend complaint after Credit Acceptance Counsel on the record, Stephen W. King admitted to the Magistrate Rajapakse's credit report was in fact in error along with supportive evidence in the record of the court, facts, and law. The court denied Rajapakse motion for summary judgment.

Rajapakse filed timely motions in seeking redemption of the vehicle, but the court deem that since the vehicle was already repossessed the only remedy was to sue for damages, *Fuentes v. Shevin*, 407, U.S 67.

REASON FOR GRANTING CERTIORARI

Credit Acceptance has a long standing of deceptive practices in this country. The New York Attorney General has filed state charges against Credit Acceptance for issues from the warranty to miss applied payments. In *Wadlington v. Credit Acceptance* the Sixth Circuit Court. Evidence, Fact, and Law, the Sixth Circuit has upheld the District Court dismissal of Rajapakse's complaint citing moot and found no evidence to support her complaint. [see *Petitioner Emergency Stay related to judicial behavior and misconduct*].

A. The courts action of a private repossession turned the case into a federal action which violates Rajapakse 4th

Amendment:

This court held in *Blum v. Yaretsky*, 457 U.S. 991, 1004, raising issues of the government violating the fourth Amendment in a private case, two issues has to be risen. 1) a sufficient transformation of a private repossession to a government to a state action and it 2) has to be unreasonable. This court further held that whether the right at issue was clearly establish at the time of the defendant allege misconduct,

Saucier v. Katz, 533 U.S. 194, 201. The Doctrine of qualified Immunity Protects government officials “from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights which a reasonable person would have known,

Middaugh v. City of Three Rivers, No. 15-1140, Sixth Circuit, March 29, 2017 (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818; *Hensley v. Gassman*, 693 F. 3d. 681, 687.

B. Rights of Pro se Rajapakse to defend her property rights in the court.

Despite the repeated ruling from the Supreme Court and the Appellate Court of the United States, those representing themselves in court as pro se have a hurdle that needs no more assistance from the courts. Rajapakse was given an order to be appointed of counsel to represent her in the court proceedings. As thousands of Pro se that would benefit from appointment of counsel with less knowledge of court procedures, not to mention lack of legal terminology,

Counsel for Credit Acceptance never acted as a “debt collector” for the account. Prior to the lawsuit filed, Rajapakse had possession of the vehicle until February, 2018. Since the case was filed prior to the possession of the vehicle, Credit Acceptance violated the 1692i(a)(2), Credit Acceptance should have filed a suit in state of Tennessee court seeking possession of the vehicle to enforce their interest in real

property in the state of Tennessee since the vehicle was located in Tennessee and the contract was consummated in Tennessee. Credit Acceptance violated the Fair Debt Collection Act by using the suit in court over the fraudulent warranty and misapplied payments to wrongfully repossess Rajapakse's property, §1692k

C. Laws and Statues related to Auto Warranties:

As today more people are financing vehicles auto lenders are held under Z regulation to furnish accurate information on a consumer's credit. More and more are adding vehicle service agreements (VSA) to cover the expensive cost of repairs on associated with their vehicles. Rajapakse did the same in protecting her vehicle repairs and when it was revealed the coverage did not exist, Credit Acceptance should have removed the cost of the warranty in full and adjusted her account. *Chapter 47 18 U.S.C §1001(2)* fraud is defined as making any materially false, fictitious, or fraudulent statement or representation. Although Credit Acceptance testified they hold no liability to the warranty, Affidavit of Robert Williams, Managing Member of One Stop Auto testified marketing and operation of the warranty, including claims originated from Credit Acceptance. *Magnuson-Moss Act*§ 2300-§2301 states breach of warranty is when a consumer does not receive conditions of the warranty, terms and exclusions, coverage, how file a claim and when the warranty is void nor the location of how to contact the coverage. Credit Acceptance applied a "rebate" or pro rate to the account for the non-delivery of the warranty, but under the

Truth in Lending Act rebates only applies to the financing of new vehicles. Rajapakse's vehicle was used. Credit Acceptance had an obligation to disclose to Rajapakse who was obligated to provide service on the warranty, *Streit v. Fireside Chrysler Plymouth, Inc, 697 F.2d 193*. The court erred by not allowing Rajapakse the right to protect and defend her property.

D. Furnisher furnishing Information on Rajapakse's Credit Report:

Consumers rely on creditors to report accurate information on their credit to increase their credit score and reflect proper payments with the company payment histories. Today credit reports are used for those seeking employment with many companies and more with federal, county, and state government. Inaccurate information being reported on a consumer's credit causes denial of credit, high interest rates, and denial of employment to good paying jobs. When a consumer has a dispute with a creditor over inaccurate information or payments, consumers are not helpless in disputing these disputes. §1666 (c) of the Fair Credit Reporting Act furnisher are to be prompt and fair crediting of payments. Credit Acceptance took three years to even adjust the account related to the warranty. The responsibility of information related to the account to the consumer reporting agencies was Credit Acceptance, 1681s2. After Rajapakse disputed the lowest amount on the credit and it continued to be placed back on her credit by Credit Acceptance, Credit Acceptance validated the original loan amount of \$10,893.34. The amount of

payment was over \$12,000.00, entitlement to the vehicle was Rajapakse and not Credit Acceptance. Credit Acceptance wrongfully repossessed Rajapakse's vehicle without entitlement and therefore it has become a wrongful repossession. Creditors don't return personal effects property of someone they have repossessed a year later if there was any kind of wrongdoing.

Credit Acceptance altered their payment history in the record by entering a payment history in to the record with an affidavit showing Rajapakse defaulted on the loan by not making a payment from February, 2014 to September, 2018. The payment history that was previously provided to Rajapakse by Credit Acceptance detailed payments were made within that time line. Credit Acceptance swore on oath the missing payment history was correct rather than the previous ones. By devising a scheme to defraud through unlawfully obtaining possession, *U.S. v. Maze*, 414 U.S. 395 94 S Ct. 645 38 L. Ed. 2d 603. *The Sixth Circuit held in Bryant v. TRW, Inc.*, 689 F. 2d 72 “ Negligent or non-compliance with “any” requirement of the FCRA gives rise to liability for “any” actual damages and reasonable attorney fees. FCRA 1681n states in additional to liability for punitive damages. Credit Acceptance admitting the credit report was intentional, Rajapakse was entitled to punitive damages for such violation.

**E. Affidavits and Evidence Supporting Credit Acceptance
Deceptive History behavior:**

Affidavits from consumers of Credit Acceptance were collected from Facebook, *U.S Morales*, 687 F .3d 697 702-02 and provided substantial evidence, *Wilbanks v. Sec. of Health and Human Services*, 847 F .2d 301, 303. This court held that facial plausibility when the Plaintiff Pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for misconduct. *Ashcroft v. Iqbal*, U.S 129, S. Ct. 1955, 167 L . Ed . 2d 929. The court ruling was bias because it made creditable Credit Acceptance payment history submitted into the court with an affidavit, but discredit previous payment history and credit report of Credit Acceptance. Affidavits submitted by Rajapakse supported the inaccurate payment history, the deceptive behavior and injuries caused by Credit Acceptance. Substantial evidence supported a reason conclusion, *Richardson v. Perales*, 402, 387, 401, 91 S. Ct. 1420, 28 L. Ed. .2d 842.

F. Moving Party sought Summary Judgement against Credit Acceptance for violations:

Summary judgment as a matter of law under *Fed. R. Civ. P 56 c* in considering a motion for summary judgment, the district court must construe the evidence and draw all reasonable inference in favor of the non-moving party, *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 106 S. Ct. 1348, 89 L Ed . 2d 538. Rajapakse had a federal right to sue to invasion and to used the court for any available remedy to make good the wrong done, *Nixon v. Condon*,

286, U.S. 73 52 S Ct. 484 76 L. Ed 984. Evidence the warranty was fraudulent supported the facts and laws, the intentional denied Rajapakse the right to summary judgment at a matter of law, was the government depriving Rajapakse of life, liberty and of property survives due process scrutiny, it must still implemented in a fair manner, *Pailko v. Connecticut*, 302, U.S. 319, 325-326 [58 S Ct. 149, 152, 82 L. Ed 288]. Rajapakse stated a claim in court under 1983 against the courts under the United States Constitution of the Due Process Clause which is still protected, *Morgan v. Church's Fried Chicken*, 829 F. 2d 10,12.

CONCLUSION

A Writ of Certiorari is essential to protect Plaintiff's right as pro se to seeking relief which the laws of this Court and the state does not support the judgment of the Sixth Circuit. Without interim relief, Petition for certiorari and correct the Six Circuit extraordinary decision to uphold a law identical to one this court has already upheld and protect for representing themselves and consumer laws in this court. This Court must allow Writ of Certiorari to ensure Public Trust that those who come before the court Pro Se without counsel to ensure the protect of the Fourth Amendment and 14th Amendment Rights will be protect and well guarded.

Date **September 30, 2019**

Samantha Rajapakse

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INDEX TO APPENDICES

Appendix A: Order from the Sixth Circuit Court of Appeals

Appendix B: Summary of Docket for Sixth Circuit Court of Appeals

Appendix C: Order from Eastern District Court of Michigan

Appendix D: Summary of Docket for Eastern District Court of Michigan

Appendix E: Affidavit from Former Defendant Robert Williams of One Stop Auto Sales testimony to Warranty attach with Credit Acceptance

Appendix F: Affidavit of Christopher Arthur testimony to Credit Acceptance deceptive practice.

Appendix G: Affidavit of Synthia Johnson testimony to Credit Acceptance Deceptive practice.

Appendix H: Affidavit of Kip Fitzgerald testimony to Credit Acceptance Deceptive practice.

Appendix I: Affidavit of Amanda Stinson testimony to Credit Acceptance Deceptive practice.

Appendix J: Affidavit of Marcus Mays testimony to Credit Acceptance Deceptive practice.

Appendix K: Samantha Rajapakse credit report showing original balance Of creditor, Credit Acceptance of auto loan

Appendix L: Letters from Credit Acceptance showing original balance Of auto loan

Appendix M: Letter from Council Edmund Ford,, Jr audit of Account from Credit Acceptance

Appendix N: Affidavit of Shaniece Harris related to hearsay
Conversation between Counsel King of
Credit Acceptance and Rajapakse

Misc

The Federal Judicial Center
Judges who were Impeached

The Federal Judicial Center
Judicial Conduct and Disability Act