

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 20-11430-Q

In re: EMPRESA PUBLICA DE HIDROCARBUROS DEL ECUADOR,

Petitioner.

On Petition for Mandamus from the United States
District Court for the Southern District of Florida

Before: WILSON, ROSENBAUM, and JILL PRYOR, Circuit Judges.

BY THE COURT:

Before this Court is Petitioner Empresa Publica de Hidrocarburos del Ecuador's ("PetroEcuador") Petition for Writ of Mandamus Pursuant to the Crime Victims' Rights Act ("CVRA"), 18 U.S.C. § 3771(d)(3). After review of the petition, the response, and the record, we DENY the petition. The district court denied relief under the CVRA and the Mandatory Victims Restitution Act, 18 U.S.C. § 3663A ("MVRA") after determining that PetroEcuador was precluded from attaining victim status based on the level of "pervasive, constant, and consistent illegal conduct" among its principals, and, regardless, PetroEcuador had not demonstrated the requisite link between the criminal conduct at issue and any alleged harm.

Here, we conclude that the district court did not err in denying PetroEcuador relief. *See* 18 U.S.C. § 3771(d)(3) ("In deciding such application, the court of appeals shall apply ordinary standards of appellate review."). The record demonstrates that at least five PetroEcuador employees, including a member of the Board of Directors and other high-level employees, were involved in the underlying bribery scheme. Their actions can be imputed to PetroEcuador, as

obtaining and retaining contracts on behalf of PetroEcuador was within the scope of their employment and they acted, at least in part, to benefit PetroEcuador by obtaining contracts that were subsequently performed by a qualified contractor. *See United States v. Gold*, 743 F.2d 800, 822-23 (11th Cir. 1984). Additionally, the record does not support PetroEcuador's assertion that it was directly and proximately harmed, as there is no evidence that the contract prices were inflated by the bribes as alleged. Consequently, the petition for writ of mandamus is DENIED.

The Clerk's Office is directed to close this case.