

UNITED STATES COURT OF APPEALS

FEB 27 2009

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: MELVIN PARKER; LERAH
PARKER.

Nos. 09-70529, 09-70533

D.C. No. 9:05-cr-00007-DWM
District of Montana,
Missoula

MELVIN PARKER; et al.,

Petitioners,

ORDER

v.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
(MISSOULA),

Respondent,

W.R. GRACE & CO.; et al.,

Real Parties in Interest.

Before: HAWKINS, SILVERMAN and GOULD, Circuit Judges.

After review of the parties' briefs and the record, the petitions for writ of mandamus are granted. The district court erred in denying petitioners' motions to accord rights to victim-witnesses based on its finding that the 34 victim-witnesses identified by the United States as prospective victims do not meet the meaning of

“crime victim” set forth in the Crime Victims’ Rights Act, 18 U.S.C. § 3771(b)(2)(D), and therefore are excluded from court proceedings.

The district court is instructed to vacate its February 13, 2009 order and to conduct further proceedings so that it may make particularized findings with respect to each of the 34 victim-witness consistent with 18 U.S.C. § 3771(a)(3).

PETITION GRANTED.