

Private Investigations Not Compensated Under Mandatory Victims Restitution Act

29 May 2018

The Mandatory Victims Restitution Act of 1996 requires defendants convicted of certain federal offenses to reimburse victims for “lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.” 18 U.S.C. sec. 3663A(b)(4). When Sergio Lagos defrauded a lender for tens of millions of dollars, that lender spent nearly \$5 million investigating Lagos on its own and litigating against him in bankruptcy court. The lender requested that it receive restitution under the Act, and the Fifth Circuit affirmed the award of those fees. The Court, in a short, unanimous opinion by Justice Breyer, reversed, holding that the “investigation” and “proceedings” referred to in the Act are limited to government investigations and criminal proceedings, and not private investigations or civil or bankruptcy proceedings. That the lender shared the fruits of its investigation with the Government did not make those costs recoverable either, indicating a narrow reading of the relief available under the Act. The opinion in *Lagos v. United States* is [here](#).

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