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## **Witness K to plead guilty as lawyer Bernard Collaery committed to stand trial**

**By Alexandra Back**

More than a year after the former spy Witness K and his lawyer Bernard Collaery were charged over the exposure of an Australian bugging operation on the tiny nation of East Timor, the pair have parted ways, with the spy to plead guilty and the lawyer to fight what he called a "contemptible" charge.

Speaking outside court after a mention in the ACT Magistrates Court on Tuesday, Mr Collaery said he understood Witness K's position as he praised the former spy, a "decent and honourable" person who had been "subjected to six years of seclusion, harassment and pressure".

Mr Collaery will now sit alone in the dock as defendant in a court where for 40 years he has defended. At stake, he told a media scrum outside court, was the integrity of Australia's parliamentary democracy, the moral and ethical integrity of political leaders. He said it was a "turning point" in whether Australians have freedom of expression against abuse of power and equality before the law.



 Lawyer Bernard Collaery (left) arrives with supporters on Tuesday. Picture: AAP

"This is an attempt, to make no secret about it, this is a very, very determined push to hide dirty political linen that's what this is all about, dirty political linen under the guise of national security imperatives. It's nonsense," he said.

The background to the case is by now public, though none of it yet aired in court. In 2004, Witness K, a spy with the Australian Secret Intelligence Service, oversaw a bugging operation ordered by the Australian government on the East Timorese cabinet rooms. At the time, Australia was negotiating with its tiny and impoverished neighbour over lucrative oil and gas reserves and the two nations later signed a treaty over how those reserves were to be shared.

Concerned about what he had seen, Witness K took his complaint through official channels to the Inspector-General of Intelligence and Security, who later approved Mr Collaery to act as his representative.

In 2013, Mr Collaery arranged for Witness K to give evidence at a hearing overseas about the allegedly illegal bugging operation but his home and office were raided and the brief seized; Witness K was also raided and his passport confiscated. Mr Collaery later spoke to a number of journalists in protest of the raids.

Speaking outside court, Mr Collaery said that in providing Witness K with advice it had become apparent to him that the misconduct complained of was a "cheating culture motivated by commercial interests and an abuse of process".

Mr Collaery, who said national security orders barred him from saying too much about the case, said he stood by the advice he gave as well as the journalists named in charges against him. "And that is a matter of great concern to me that journalism is as equally under threat as is the giving of legal advice in good faith," he said.

The one positive to his trial was that it will enable the Australian people to indicate the moral and political values they expect from their leaders, he said.

"The great thing I've learnt in 40 years that I've been a lawyer is that if you suppress the truth the stronger it becomes, and the truth is going to become stronger out of this trial.

"Whether it produces a better parliamentary democracy and more ethical political leadership let's see. But if it does, I'm content to have gone through this trauma."

The East Timorese took Australia to The Hague over the allegations exposed by Witness K and the treaty was eventually renegotiated.


Months later, federal prosecutors filed charges against the spy and his lawyer, with the approval of the federal Attorney-General Christian Porter, alleging they conspired to breach s39 of the Intelligence Services Act, which makes punishable the revealing of information of any kind about ASIS.

The charges were laid 14 months ago.

But the case has crawled through the court, dragging behind it national security information laws passed in the early 2000s to fight terrorism and which demand orders to be made to protect information and closed hearings be held before it progresses.

At the request of Mr Collaery's lawyers and with the consent of federal prosecutors, Acting Chief Magistrate Glenn Theakston on Tuesday committed Mr Collaery to stand trial in the ACT Supreme Court. The usual process was waived and as is the custom, Mr Collaery was placed on bail with the condition to alert the court to any change of address.



 Lawyer Bernard Collaery is accused of conspiring to breach intelligence laws by revealing information about Australia's secret intelligence service. Picture: AAP

The barrister for Witness K, Haydn Carmichael, said Witness K would be dealt with summarily and intended to plead guilty to the charge but that negotiations continued over the facts. He revealed for the first time in open court that the charge against Witness K was about releasing information to the East Timor government in the swearing of an affidavit for The Hague. Witness K was not present, but as is the court's practice he will have to be in future to formally enter the plea.

A hearing to determine national security orders listed for Tuesday was abandoned and questions about closed courts and future orders were left for another day, with all agreeing it was imperative that Witness K's identity be kept secret.

Mr Collaery said he was yet to explain his case to his own lawyers.

Mr Collaery will appear in the higher court on August 22, while Witness K's matter appears in court again on August 29.