

# High Court defers decision on Collaery case

Kerry Smith, GreenLeft Issue 1342, April 13, 2022

The High Court on April 13 declined to consider the federal government's application to suppress publication of a judgment by the ACT Court of Appeal in the protracted prosecution of lawyer Bernard Collaery until the ACT Supreme Court resolves what evidence against him would be kept secret for "national security" reasons.

Collaery is being charged by the Commonwealth Director of Public Prosecutions because of the exposure of an Australian Secret Intelligence Service (ASIS) operation in Timor Leste during 2004.

Listening devices were planted by ASIS to eavesdrop on Timorese government negotiations while Timor-Leste was negotiating a new maritime boundary with Australia. This boundary held major implications for oil and gas exploration and shared revenues.

## See also

[Bernard Collaery trial secrecy orders removed](https://www.greenleft.org.au/content/bernard-collaery-trial-secrecy-orders-removed) (<https://www.greenleft.org.au/content/bernard-collaery-trial-secrecy-orders-removed>)

[Behind the campaign to silence Witness K and Bernard Collaery](https://www.greenleft.org.au/content/behind-campaign-silence-witness-k-and-bernard-collaery) (<https://www.greenleft.org.au/content/behind-campaign-silence-witness-k-and-bernard-collaery>)

The government wants some of the evidence against Collaery in a closed hearing to be kept secret – even from his lawyers.

"The appeal case is another example of the government's persecution of Collaery," Kathryn Kelly, Co-convenor of the Alliance Against Political Prosecutions, said on April 13.

Attorney General Michaelia Cash is seeking to overturn a decision by the ACT Court of Appeal to release its reasons to allow Collaery's trial to go ahead in public.

"The appeal should never have been brought," Kelly said. "The decision to reserve their judgment ... is disappointing.

"The supposedly critical issues of 'national security' in this case are not credible, particularly when it appears that the High Court judges have not even been privy to those 'concerns'," she said. "Trust in our justice system is being lost because of these machinations.

"There is an urgent need for a federal independent commission against corruption to investigate how the ASIS bugging operation was approved and the processes which guided the decision to prosecute Collaery," Kelly concluded.