

Judge orders trial date be set as Bernard Collaery asks to call more evidence from former East Timor presidents

Elizabeth Byrne, ABC News, 18 May 2022

Canberra lawyer Bernard Collaery has asked to be allowed to call for more evidence from two former presidents of East Timor to support his case as a judge orders a trial date must be set.

Key points:

- Mr Collaery is accused of conspiring to reveal classified information about an alleged Australian spying operation on East Timor
- Justice David Mossop ordered that a trial date be set
- A secret hearing is still yet to determine what should and should not be heard in open court during the trial

Mr Collaery's lawyer Philip Bolton told the ACT Supreme Court today he needed to take further evidence from former East Timor presidents Xanana Gusmao and Jose Ramos Horta, to support his efforts to keep the trial open.

Mr Ramos Horta is also now President-elect, set to once again take up the top job on May 20.

Both men have already given evidence by way of affidavit in earlier proceedings.

Tim Begbie, who is representing the federal Attorney-General, told the court further evidence from the pair should not be allowed.

Mr Begbie said the plan might also mean that the Commonwealth would have to go into new evidence when the court considers top-secret court-only material at a special hearing.

But Mr Collaery's lawyer Philip Bolton said to deny the evidence from the two men would set up a procedural barrier to Mr Collaery in his case to keep the trial open.

"The Commonwealth's position is to protect the Commonwealth generally," Mr Bolton said.

He said the government was concerned evidence from people of such stature might contradict its case.

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The case was moved forward today, with [the appointment of a special counsel to represent Mr Collaery in the top-secret evidence hearing.](#)

The court is even considering holding the hearing somewhere other than the court building, to ensure security.

The secret hearing will help determine what should and should not be heard in open court during the trial.

Today, the court also refused an application for an extension of time by Mr Collaery's lawyers as they contemplate an [appeal against a ruling this week, setting aside subpoenas for documents from major government agencies.](#)

Mr Collaery had hoped to find information about the legality of the alleged spy operation in the materials sought.

But the court found he could still be prosecuted without the government having to prove beyond reasonable doubt that the alleged operation was within the law.

Despite the unfinished business, Justice David Mossop ordered a trial date be set next week, shifting the emphasis from the battle with the Attorney-General to the prosecution.