

ACT Supreme Court formally ends prosecution of Canberra lawyer Bernard Collaery

Elizabeth Byrne, ABC 8 July 2022

The prosecution of Canberra lawyer Bernard Collaery has now officially ended, with his legal team considering seeking costs for the case that has spanned four years.

The ACT Supreme Court formally ended the prosecution of Mr Collaery a day after [federal Attorney-General Mark Dreyfus ordered the charges against him be dropped](#).

Mr Collaery was facing five charges, including that he conspired with an ex-spy and his former client, known as Witness K, to reveal details of an alleged spying operation in Timor-Leste during sensitive oil and gas treaty negotiations.

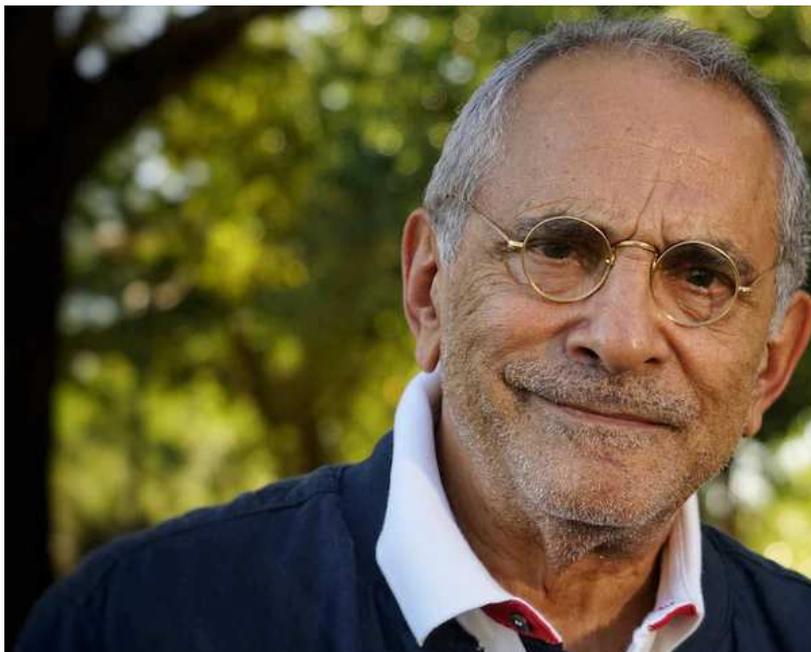
[Witness K eventually pleaded guilty](#) and was given a suspended sentence, but Mr Collaery has fought the case all the way and [was to face trial in October](#).

Although the trial had never officially begun, the case racked up millions of dollars in legal costs, as the government sought to prevent Mr Collaery's team from getting access to classified information he wanted for his defence.

But while the legal battle has been extremely complicated and shrouded in secrecy thanks to then-attorney-general Christian Porter invoking the National Security Act, the dispute was simply over whether Mr Collaery could have an open jury trial, or a prosecution held largely in secret.

His lawyers said the case had involved 10 separate hearings in the ACT Supreme Court, with 13 judgements.

That is now all over.



Timor-Leste President José Ramos-Horta says Mr Collaery and Witness K are "great people" who he "bows to".

'It closes a bitter chapter in our 20-year relationship': Timor-Leste President

Throughout the case, Mr Collaery's support has been significant, with Timor-Leste President José Ramos-Horta and former leader Xanana Gusmão set to be called as witnesses, along with former Labor foreign minister Gareth Evans.

Speaking to the ABC, Mr Ramos-Horta said the decision to drop the charges against Mr Collaery was "wise".

"I'm very pleased, so are other leaders, with the decision by the Australian government," he said.

"It closes a bitter chapter in our 20-year relationship since Timor-Leste became independent.

"What happened in the past, on the part of Australia, with the bugging of our offices, the spying on our government ... we leave behind."

Mr Ramos-Horta said there should be no more action against the authorities who initiated the bugging.

"We are determined to move forward, to expand the relationship with Australia – a very important neighbour and friend to Timor-Leste."

Mr Ramos-Horta said dropping the charges against Mr Collaery had resulted in "a far better atmosphere of mutual trust" and called for the Australian government to return Witness K's passport, allowing him to travel.

"Witness K is another victim of this whole saga," he said.

"Returning the passport to Witness K would be tremendous and would show Australia is taller, stronger than the petty punishment of a good man who spoke his conscience, who didn't agree with the bugging of a poor, impoverished country."

He said both Mr Collaery and Witness K were "great people" who he "bowed to".

"In life, in humanity's history, there were great people who, in the face of extreme adversity, at the risk of their careers or sometimes of their own lives, took a moral stance that was higher than a political decision made by temporary political leaders," he said.

Collaery's lawyers given a week to decide if they'll seek costs

On Friday morning, Mr Collaery's lawyer Christopher Ward told the ACT Supreme Court he was considering applying for costs.

Justice David Mossop replied there was not normally an avenue for costs in a criminal prosecution, but allowed time for Mr Collaery's lawyers to make a decision, warning it should be made quickly.

Mr Ward has been given until next week.



Canberra lawyer Bernard Collaery says the dropping of charges against him will allow him to move forward with his life. (ABC News: Andrew Kennedy)

In the meantime, Justice Mossop also asked the lawyers to make a decision about the storage of classified documents filed in the case.

"The practicalities of [the court] storing the material for an eternity ... is an unattractive one," he said.

Justice Mossop told the court he would vacate the Supreme Court matters, including the trial, but separate applications would need to be made to other courts over other matters, including a paused High Court application over a separate appeal in the case.

Mr Collaery is in France but on Thursday issued a statement welcoming the decision to abandon the prosecution.

"This is a good decision for the administration of justice in Australia," he said.



Supporters of Mr Collaery and Witness K have gathered outside the ACT law courts throughout the case. (AAP: Lukas Coch)