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Witness K to plead guilty in Timor-Leste spying case but lawyer to fight charges

Bernard Collaery will stand trial over conspiring to breaching secrecy laws, calling the accusations against him 'contemptible'



Witness K will plead guilty in Timor-Leste spying case but lawyer Bernard Collaery (middle) will fight the charges in court
Photograph: Mike Bowers/The Guardian

Paul Karp

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The former spy Witness K will plead guilty to breaching secrecy laws by revealing Australia's spying on Timor-Leste but his lawyer, Bernard Collaery, will fight charges in the ACT supreme court.

In the ACT magistrates court on Tuesday, Collaery waived his rights to a committal hearing and prosecutors consented to send his case to the supreme court. Collaery was granted bail and was summoned to appear on 22 August.

Haydn Carmichael revealed that his client, Witness K, will plead guilty to a summary offence, one breach of section 39 of the Intelligence Services Act for communicating secret

information obtained in the course of his duties as an Australian Secret Intelligence Service agent.

Outside the court, Collaery issued a statement that Witness K's complaint had revealed a "cheating culture motivated by commercial interests" which was both "contrary to Australia's national security interests" and unlawful.

Collaery said he stood by his legal advice to Witness K, labelling the accusation that he had unlawfully conspired with Witness K "contemptible".

The two men were charged with disclosing information about the bugging of Timor-Leste government buildings in 2004, an operation that gave Australia the upper hand in talks to carve up resources in the Timor Sea.

Collaery said he was charged with "speaking to five journalists after my chambers were raided and my brief seized", labelling the case "a likely turning point on ... true freedom of expression against abuses of power".

Collaery said the prosecution was "a very determined push to hide dirty political linen ... under the guise of national security imperatives".

He said an open court process would reveal the disclosures were "totally unrelated to national security concerns".

Collaery said he had "great empathy for Witness K and the struggle [he] has gone through spiritually, mentally and physically". He said Witness K had "reached a conclusion he needs to exit the process" after "six years of seclusion, harassment and questioning".

In court, the attorney general's counsel Richard Lancaster pushed for a hearing to proceed on the extent of protected national security information in the case.

The acting chief magistrate, Glenn Theakston, recorded Witness K's intention to plead guilty but noted a precedent case that would require him to attend in person to enter the plea.

He adjourned the matter to 29 August to grant further time for Witness K and the prosecution to reach agreement on the scope of national security information to avoid the need for a separate hearing.