

# Judge slams Porter's delay in Collaery case

*Christian Porter's attempts to string out and obstruct Bernard Collaery's defence have again been criticised.*

Bernard Keane – *Crikey* - 9 February, 2021

<https://www.crikey.com.au/2021/02/09/judge-slams-porters-delay-in-collaery-case/>

Another judge has lashed Attorney-General Christian Porter for his obstruction in the government's prosecution of Bernard Collaery over revelations of ASIS' illegal spying on Timor-Leste.

This morning Justice John Burns in the ACT Supreme Court gave his reasons for allowing Collaery's request for forthcoming trial dates to be vacated in order to accommodate former National Security Monitor Bret Walker SC.

Walker, one of Australia's pre-eminent national security legislation lawyers, agreed immediately before Christmas to act for Collaery in the latter's appeal against the court's decision to grant Porter's request for the trial to be held in secret. Walker was unavailable on the originally scheduled hearing dates.

However, Porter and his bureaucrats tried to prevent Walker from participating in the case by initially refusing to provide him with permission to join the case under national security provisions, and refusing to agree to moving the hearing dates.

Australian Government Solicitor (AGS) bureaucrats only agreed to add Walker to the national security certificate more than a month after being asked, on January 25. They then sought to delay things further by insisting that while "Mr Walker SC may already be familiar with the treatment of classified material within the Commonwealth ... he will still need to undergo a practical security briefing", as if the former National Security Legislation Monitor wouldn't understand how to store classified documents.

In allowing Collaery's request for the dates to be moved, Justice Burns specifically targeted Porter:

If this had been a simple case of a late decision to brief Mr Walker in circumstances where he was unavailable for the dates allocated for the appeal, I would have refused the application ... The failure of the attorney-general to act upon the request that the s. 26 certificate be amended to permit Mr Walker to have access to the brief and to take instructions from 23 December 2020 until 25 January 2021 meant that any benefit to the appellant in briefing Mr Walker with regard to the appeal in this court was likely to be significantly reduced if not lost entirely. I consider this to be unfair to the appellant.

This is the third time that Porter has been criticised for obstructing Collaery's trial, with Porter's own barrister Tim Begbie (Porter himself is represented in this trial along with the Director of Public Prosecutions) [earning the ire](#) of both original judge Lorraine Walker and trial judge David Mossop for long delays.

Justice Burns also criticised AGS bureaucrats for “a disturbing suggestion that those who represented and advised the attorney-general perceived that their satisfaction at the necessity for Mr Walker to be briefed by the appellant was in some way relevant. It clearly was not.”

It seems AGS bureaucrats have taken their cue from the attorney-general himself.