

Witness K scandal: Case makes first appearance in court

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Lawyers for a Canberra barrister accused of breaching national intelligence laws told a court on Wednesday that they want as much of the trial to take place in open court as possible.

But a laborious court process might be looming over how material that is deemed to disclose sensitive information about Australia's national security will be dealt with.

The case of former Australian spy Witness K and his lawyer Bernard Collaery made its first appearance in the ACT Magistrates Court late on Wednesday afternoon.

The former spy and Mr Collaery are accused of conspiring to breach intelligence laws.

Witness K blew the whistle on an illegal bugging operation undertaken by Australian intelligence officers against the Timor-Leste government in 2004.

The two nations were in negotiations about how revenue from lucrative oil and gas reserves would be divided.

Witness K took his complaint to the inspector general of intelligence security, and with approval engaged Mr Collaery as his representative.

Mr Collaery was charged in relation to his discussions with journalists after ASIO raided his office in 2013.

Mr Collaery and Witness K did not appear in the Canberra court for the case's first mention, leaving Chief Magistrate Lorraine Walker to ask: "I have no one to charge ... where are we going from here?"

Richard Maidment QC, for the Commonwealth DPP, told Ms Walker that the parties were still hopeful of negotiating a set of agreed orders that would protect the disclosure of national security information.

The orders, which are provided for in national security information laws, are procedural, and deal with commitments by all parties in federal prosecutions to protect sensitive information.

Without agreement, a much more laborious court supervised process will be initiated.

Mr Collaery's silk, Christopher Ward QC, who appeared with barrister Ken Archer, told the court it was their position that as much of the trial as possible took place in open court.

He said the parties had so far been unable to agree on the orders, and flagged a likely application for the court to become involved.

For Witness K was barrister Haydn Carmichael. He said his client was content with that pseudonym continuing in court and noted that so far on the charge sheet the only classified information was Witness K's name.

He agreed that they were hopeful a resolution on the orders would be made.

Dozens of supporters filed into court when the case's first mention started about 4.45pm and Ms Walker called Mr Collaery's matter.



Protesters gather outside the ACT Magistrates Court on Wednesday in support of Witness K and Bernard Collaery.

Photo: Supplied

But many people were forced to sit on the floor and lean against the walls in the small Court 2 usually reserved for bail hearings.

The mention was finished in 15 minutes. The case was adjourned to October 29.



Lawyer Bernard Collaery and his client Witness K face jail over the East Timor bugging operation.

Photo: Alex Ellinghausen

Earlier on Wednesday, protesters outside the Civic court building called for the criminal charges against Witness K and Mr Collaery to be dropped.

The protest, organised by activist group GetUp, attracted dozens of supporters who held signs in support of the former spy and his lawyer.

Independent MP Andrew Wilkie, Centre Alliance MP Rebekha Sharkie and Greens senator Nick McKim all addressed the crowd.

Mr Wilkie said if intelligence officials witnessed crimes they had a moral obligation to speak up.