

Former Australian spy Witness K spared jail

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The former Australian spy known as Witness K has been handed a three-month suspended sentence for conspiring to reveal classified information about an alleged Australian operation to bug East Timor's cabinet rooms during sensitive oil and gas treaty negotiations.

In a sentencing hearing in the ACT Magistrates Court on Friday, magistrate Glenn Theakston chose not to jail the former spy, who was obscured from the view of the courtroom behind a wall of black panels.



Protesters supporting Witness K's former lawyer Bernard Collaery in front of the Law Courts in 2019. Credit: Alex Ellinghausen

Witness K [pleaded guilty](#) to the charges on Thursday. He is now subject to a 12-month good behaviour bond.

Mr Theakston said the offence was "not trivial" and that there were good reasons [for the culture of secrecy engaged in by intelligence agencies](#), the Guardian Australia reported.

"It cannot and should not be up to ... former staff members to unilaterally depart from those security obligations," Mr Theakston said.

"It was not a breach that was going to go hidden for some time."

Mr Theakston said the security requirements of Australian Secret Intelligence Service were "strict and absolute", but noted Witness K seemed to be motivated by a sense of justice rather than personal gain.

The former intelligence officer's barrister, Haydn Carmichael, told *The Age* "it's a profound relief in all of the circumstances that the matter is resolved."

Witness K was involved in airing allegations about a 2004 bugging operation against East Timor that appeared to give Australia an advantage in commercial negotiations to carve up oil and gas resources in the Timor Sea.

The actions of Witness K and his former lawyer, Bernard Collaery, helped the East Timor government build a case against Australia at The Hague, which led to Canberra renegotiating the deal.



Lawyer Bernard Collaery is also being prosecuted for allegedly helping his then client, Witness K, reveal aspects of an alleged secret bugging operation against East Timor. *Credit: Alex Ellinghausen*

Witness K had always indicated he would plead guilty to breaching secrecy laws but there have been years of drawn-out negotiations between his defence and the prosecution over the agreed facts of the case as well as evidence that could be submitted in open court.

Mr Collaery, a barrister and former ACT attorney-general, is facing the prospect of jail for allegedly helping his client.

Mr Collaery is continuing to fight the charges against him in the ACT Supreme Court, where a two-day court hearing into an appeal brought by him challenging a secrecy order was last month [held behind closed doors](#).

Independent senator Rex Patrick praised the actions of Witness K, labelling him as a hero and deriding his prosecution as a disgrace.

Foreign Affairs Minister Julie Bishop and Timor Leste Deputy Prime Minister Agio Pereira sign the maritime border agreement, ending disputes over the maritime boundary between the two countries.

“Today I stand ashamed to be Australian,” Mr Patrick said.

“To be clear, Australia wasn’t spying on them for reasons of national security – they were trying to swindle the newest and poorest nation in the world of oil and gas royalties.

“ASIS officer Witness K blew the whistle on this conspiracy to defraud the people of Timor-Leste. He did so through formal channels.”

Human Rights Law Centre senior lawyer Kieran Pender said in a statement that the saga is a “dark chapter in Australia’s history”.

“Witness K did the right thing. Whistleblowers should be protected, not punished”, he said.

“Instead of recognising the important role Witness K played in exposing wrongdoing, he was charged, prosecuted and has now been sentenced, with much of this process taking place in secret.

“There is no public interest in prosecuting whistleblowers.”