

Australian spy and lawyer charged over East Timor scandal

by Rod McGuirk | AP

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CANBERRA, Australia — A former spy and his lawyer who accused the Australian government of illegally bugging the East Timorese Cabinet while negotiating a deal to share oil and gas revenue have been charged with conspiring to disclose secret information.

Independent lawmaker Andrew Wilkie used parliamentary privilege to reveal in Parliament on Thursday that the Australian Secret Intelligence Service spy, who cannot be identified, and his lawyer Bernard Collaery had been charged in an espionage scandal that became public after the neighboring countries struck a deal on sharing Timor Sea energy royalties in 2006.

The contentious privilege, common in British Commonwealth legislatures, prevents lawmakers from being sued or prosecuted for anything they say in Parliament. The legal immunity also extends to media that report the lawmakers' words.

Wilkie alleged the bugging occurred during treaty negotiations in Dili in 2004. Australia won't comment on secret service operations.

"Spying on East Timor was indeed illegal and unscrupulous," Wilkie told Parliament. "Now this government wants to turn the former ASIS officer and his lawyer into political prisoners."

The spy, known as Witness K, was to testify at the International Court of Justice in The Hague in 2014 in support of East Timor's challenge to the validity of the 2006 treaty. East Timor argued the alleged espionage gave Australian negotiators an unfair advantage.

ASIS is an overseas spy agency that operates out of Australian embassies.

Officers from the Australian Security Intelligence Organization, the nation's main domestic spy agency better known ASIO, raided Collaery's offices and K's home in Canberra in late 2013, using counterterrorism powers introduced after the Sept. 11, 2001, attacks in the United States. They seized documents and also K's passport, preventing him from leaving the country.

Attorney General Christian Porter said he had given prosecutors approval to charge Collaery and K under the Intelligence Services Act with conspiracy to communicate ASIS information.

Porter said in a statement he would not provide detailed comment on the substance of the charges because they were before the court.

He said Collaery had also been charged with communicating ASIS information. Collaery said he assumed ASIO had intercepted conversations he had with journalists.

“The government will simply pursue this vindictive prosecution to ruin my reputation and career,” Collaery told reporters.

The pair face a possible 2-year prison sentence on each charge if convicted. Since the alleged offenses, the maximum sentence has been increased to 10 years.

Greg Barns, a spokesman for the Australian Lawyers Alliance advocacy group, said prosecutors’ guidelines stated that laying charges had to be in the public interest.

“In a case where you’ve got a person who has exposed wrongdoing, and that is we now know that Australia participated in activities in East Timor — essentially spying on East Timor — one has to ask the question what this says to other whistleblowers around Australia,” Barns told Australian Broadcasting Corp.

“It is imperative in that lawyers in Australia who serve a fundamental role in our democracy be allowed to act without the fear that they might be prosecuted for exposing wrongdoing,” he added.

Collaery said he had also been served with a gag order under counterterrorism laws introduced in 2004 that limited what he could say about the allegations and might even prevent him from revealing he had been charged.

K and his lawyer are due in the Canberra Magistrates Court on July 25, when prosecutors will argue for aspects of the hearing to be kept secret.

“The government clearly runs a risk of having a judgment on whether the actions of ASIS were unlawful,” Collaery said.

He said the charge related to K complaining about the illegal bugging to the Inspector-General of Intelligence and Security, an independent watchdog that reviews the activities of Australia’s six intelligence agencies and investigates complaints against them.

Collaery said police had never investigated K’s allegations that the bugging had breached the Intelligence Services Act.

He blamed the ruling conservative Liberal Party for the prosecutions, which he believes were the first under the legislation introduced in 2001.

“There’s been no investigation of the real conspiracy in this matter, but another conspiracy has been found in this in the Liberal Party against myself and a very brave and courageous veteran,” Collaery said.

East Timor last year dropped its case against Australia in the United Nations’ highest court as an act of goodwill ahead of agreeing on a new resources-sharing treaty.

In March, Australia, a wealthy nation of 25 million, signed a new treaty with its neighbor, a half-island nation of 1.5 million people who are among the poorest in the world, that gives East Timor most of the revenue from the oil and gas fields under the sea between them.

Wilkie, the lawmaker, quit his job as a defense intelligence analyst in 2003 in protest against the then-government citing non-existent weapons of mass destruction to explain sending Australian troops to back the U.S.-led invasion of Iraq.

He said if a judge ordered to keep secret the evidence in the trial of Collaery and K,

he would consider using parliamentary privilege again to make it public.

“I will keep a very close eye on this and yes, I will use privilege to ventilate things that I think are in the public interest,” Wilkie said.

This story has been corrected to show that name of security agency that raided suspects' office and home was Australian Security Intelligence Organization.