

Two East Timorese presidents give evidence backing Bernard Collaery in Witness K spy trial

By Elizabeth Byrne, ABC News. 27 Nov 2019

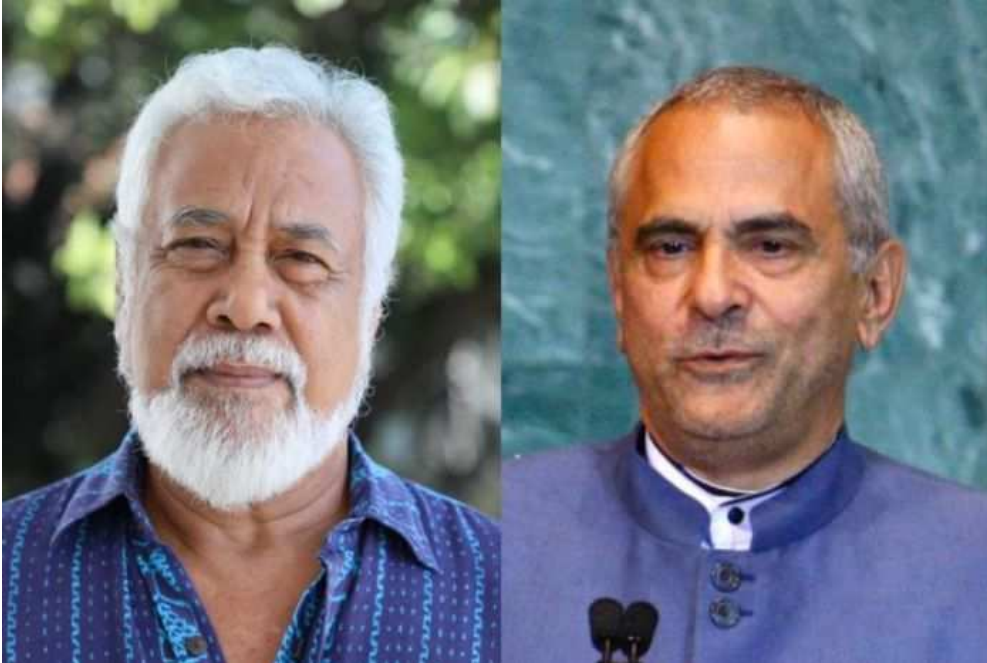


PHOTO: Former Timor-Leste presidents Xanana Gusmao (left) and Jose Ramos-Horta. (ABC News/Reuters)

Two ex-leaders of Timor-Leste and a former Australian cabinet minister have provided evidence in support of Bernard Collaery, the lawyer for Australian ex-spy "Witness K".

The ACT Supreme Court has heard that the two former East Timorese presidents, Xanana Gusmao and Jose Ramos-Horta, as well as former Australian foreign minister Gareth Evans, have given affidavits to Mr Collaery's defence team.

Mr Collaery, a barrister and former ACT attorney-general, and Witness K have been charged with conspiring to reveal classified information about a secret 2004 operation, in which Australian spies bugged East Timor's cabinet room during sensitive negotiations to carve up oil and gas reserves.

Witness K, a former senior intelligence officer whose identity remains suppressed, has indicated he will plead guilty.

But Mr Collaery is fighting the charges and is expected to face a jury trial next year.

Trial may be behind closed doors

Under Australia's strict national security laws, the court will first need to hold a special hearing to decide which information in the case is of significance to national security and how it should be handled during the trial.

At issue is whether the case will be heard in an open court.

Mr Collaery's lawyers have provided affidavits from Mr Gusmao, Mr Ramos-Horta and Mr Evans, as well as former Australian defence chief Admiral Chris Barrie.

Justice David Mossop told the court the affidavits all directly challenged the assertion by Federal Attorney-General Christian Porter that disclosing the evidence would threaten national security.

Key points:

- Bernard Collaery's lawyers also have supporting affidavits from a former Australian foreign minister and a former defence chief
- The Canberra barrister faces charges of conspiring to release secret national security information
- The trial, likely to be held next year, may be held behind closed doors because much of the evidence is classified

The Attorney-General's lawyers said they needed extra time to assess the material, particularly in light of diplomatic sensitivities if the two former East Timorese leaders give evidence.

They said they also need to assess more than 700 media articles to be included in the case, to determine whether they are linked to the alleged offence or some independent source.

The hearing was set down for three days in December but will now be delayed.

Justice Mossop told the court that, with 12 witnesses, the hearing will likely take at least four days.

He also said it was likely that Mr Gusmao or Mr Ramos Horta would need to give evidence by video link if they are required for cross-examination.

A new date for the special hearing is yet to be set, though any trial is unlikely before May next year.



PHOTO: Canberra lawyer Bernard Collaery in Parliament House on Thursday 28 June, 2018. (ABC News: Nick Haggarty)