Lawyer Bernard Collaery addresses the media. His client Witness K endured a lengthy, secretive trial for speaking out about Australia's bugging of Timor-Leste. Photograph: Lukas Coch/AAP

Witness K case

Sailor, spy, whistleblower, grandfather: the life of Witness K revealed in court documents

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Newly released records point to a man who gave everything for his country, first through his wartime service then as a decorated Asis officer with a 'moral compass'

Obscured from the world by a wall of black panels, Witness K stood before a courtroom last month and uttered three short words.

"Guilty, your honour," he said softly.

The moment passed quickly. But its import was great.

His voice, heard for the first time, suddenly set the mind's eye to work.

Shape was given to an invisible protagonist. A semblance of humanity was restored to a man robbed of it during protracted, secretive proceedings designed to punish him for speaking out about Australia's bugging of its impoverished ally Timor-Leste during 2004 negotiations over oil and gas reserves in the Timor Sea.

Now, the Guardian has been able to piece together further details of the spy's life, using newly released medical reports, Witness K's legal correspondence, and other court records.

The documents paint the picture of a "delightful", "polite, well-mannered" man, now in old age, who finds solace from his troubles in guitar.

A man who relies heavily on the support of his "dear wife" to get through each day, and a proud father of two children, who are now grown with kids of their own.

Witness K, it becomes clear, gave everything for his country, first through his wartime service with the navy in Vietnam, and later as a highly experienced and decorated Asis officer.

In the late stages of his career, he wrote that he had become "totally consumed by the injustice" of being overlooked for promotion, only to watch the job go to a younger Asis officer.

And, in the crucial years before the Timor bugging was publicly revealed, the documents show a retired spy still furious at being used by his country as an "instrument" to rob Timor-Leste of revenue for the benefit of big oil companies.

"As soon as you exhibited a degree of independence … you became a threat to those who reject any notion of sharing executive power," his lawyer Bernard Collaery wrote to him in 2013, months before both had their homes raided by Australian authorities.

"You are still burning with resentment, you are still seeking justice."

War, trauma and the devastating impact of a secretive prosecution

When Witness K was still a young man, he set out on a deployment that would shape his life forever.

Naive, and immature, Witness K signed up for the navy during the Vietnam war, and was sent as a replacement crew member to an unnamed ship that soon set course for south-east Asia.

His experiences in the war marred his life with a deep and enduring trauma.

Many details of his service are redacted, but the documents speak of one incident, during which he was fired upon while manning the ship's gun-line.

He thought he would die.

The memories plagued him when he got home. The sound of passing sirens brought them back.

He was easily startled by an unexpected touch or unseen approach. Nightmares were omnipresent.

Witness K's post-traumatic stress disorder was so crippling that his psychiatrist recommended he be retired from Asis on medical grounds.

"He tried to lead a quiet but active life, including involvement with his family and playing music," his psychiatrist said in a report.

But any peace he had was shattered in 2013, when the Australian government, furious at his attempts to give confidential evidence in the international courts about the Timor-Leste operation, raided his home and seized his passport, preventing him from travelling to the Hague.

For eight long years, the threat, and later reality, of criminal prosecution hung over his head.

Three separate psychiatric reports warned that his mental anguish was being compounded by the case, which drove him further into fear and anxiety.

"The chronic post-traumatic stress disorder and associated anxiety and depression were exacerbated by the stresses of the issues and charges related to his employment," one report said.

"He will have serious difficulties managing stress of protracted court proceedings or if he is asked to give evidence," another said.

A third report, prepared in May, warned Witness K remained "highly vulnerable to external stressors, especially those out of his control".

"Cross examination and protracted court proceedings are exactly the type of external stressors he would be vulnerable to."

Remarkably, despite being prosecuted by his government, he showed an enduring loyalty to Australia.

"He was careful to not talk about the details of his classified employment," a psychiatrist wrote in June, as Witness K prepared to be sentenced.

"I considered he had a long-standing commitment and sense of duty to the wellbeing of his country."

Listening devices, an aggrieved spy and the future of Timor-Leste

Peter Galbraith has more reason than most to praise Witness K.

Galbraith, acting as negotiator for Timor-Leste, was one of Asis's targets during that fateful 2004 bugging mission.

The long-serving ex-US diplomat and ambassador was helping the Alkatiri government's efforts to secure a fair share of revenues from the oil and gas resources in the Timor Sea, which big corporates like Woodside were seeking to exploit.

The revenue was crucial in lifting the young nation out of poverty and helping it recover from the bloody Indonesian occupation.

Australian spies bugged Timor-Leste's government offices, hoping to gain an upper hand in the negotiations.

It would have gone unnoticed, but for what Galbraith describes as Witness K's "courage and moral compass".

"If Witness K had not been willing to risk his career and freedom to do the right thing, we would have had no idea that Australia was engaged in illegal bugging in order to obtain an advantage for an Australian oil company in a commercial negotiation with Australia's poorest neighbour," Galbraith tells the Guardian.

"There was no national security issue involved here at all. It was all about money – and not for the Australian Treasury but money for oil companies."

The documents seen by the Guardian give further clarity about the events that led to Witness K's departure from Asis and, later, his decision to speak out in 2013, almost a decade after the Dili mission.

At the later stages of his Asis career, Witness K sought a permanent promotion.

Despite his extensive service, he was rejected by his superiors, who gave the job to a younger officer and made reference to the need for "generational change".

Witness K was said to be "seriously aggrieved". He felt he had been unnecessarily humiliated and would have stood aside from selection, had he known management's intentions.

Witness K approached his bosses to complain. The complaint prompted correspondence between Asis and an external ombudsman.

A protest vehicle outside the Law Courts of ACT in Canberra on 29 March 2021. Photograph: Marion Rae/AAP

The ombudsman said he had no case, but found there had been "regrettable failure on management's part" to anticipate the long-serving officer would be angry at being overlooked.

Frustration led Witness K to write to the intelligence watchdog, the Inspector General of Intelligence and Security, then Ian Carnell.

"As a result of the conduct of the selection process that I was involved in, I found myself totally consumed by the injustice of the manner in which the process was handled, and the expectations the organisation had of me following that process," he wrote.

He asked and was granted approval to approach his lawyer, the former ACT attorney general Bernard Collaery, who was regularly used as counsel for sensitive intelligence matters.

"I remain aware of my security obligations and await your advice that Mr Collaery has been briefed," Witness K said.

Collaery's signature soon appeared on an undertaking not to disclose any protected information he encountered during the case.

In February 2013, Collaery wrote to his client, plotting a route to achieve justice, both over his concerns about the Timor-Leste mission and his treatment during the job selection process.

Collaery told his client he had been "an instrument" in Australia's "gross hypocrisy and unfairness" of pretending to help developing nations while robbing them of natural resource revenues.

"I understand you were not alone in being critical of the manner in which Asis was used when there were probably other national security interest priorities," he said. "You legitimately asked why you were serving commercial and political ends that conflicted with proper notions of fairness and equity."

Collaery made it clear that the spy had followed the rules by seeking approval to speak with him and had "passed no technical details that may compromise any future operations and you have said nothing other than that a mission took place".

The rest is history.

Protesters hold a banner at a rally in support of Witness K and Bernard Collaery in front of Parliament House in Canberra on 17 June 2021. Photograph: Mick Tsikas/AAP

Collaery was also acting for Timor-Leste, which brought a case against Australia in the permanent court of arbitration. It argued the espionage showed Australia had negotiated in bad faith.

News of the proceedings brought the scandal hurtling into the public sphere, prompting widespread outrage.

The treaty was eventually renegotiated and a fairer deal was given to Timor-Leste in 2017. The nation's former leaders, including José Ramos-Horta, praised Witness K as a hero.

One year after the deal was signed, the then Australian attorney general Christian Porter signed off on the prosecution of Collaery and Witness K for disclosing protected intelligence information. The pair were charged weeks later.

Collaery's case is still before the ACT supreme court, where he plans to fight the allegations at trial.

Witness K last month avoided jail time, instead sentenced to a suspended jail term of three months.

Prof Clinton Fernandes, an expert in international and political studies and a close observer of the affair, said the Australian government had achieved precisely what it wanted.

"It avoided the shame of confessing that it spied on Timor-Leste, then recovering from a genocidal military occupation that killed 31% of the population," he told the Guardian. "It knows that the Australian public would disapprove of its actions if it came clean."

"It has succeeded in preventing a public debate about whether intelligence agencies should be used to benefit well-connected corporate entities."

Both Fernandes and Galbraith say the government was clearly trying to silence other intelligence officers who may think of speaking out.

Galbraith believes that aim may have backfired.

"The prosecution of Witness K simply kept alive the issue of Australia's bullying of its small impoverished neighbour."