

Prosecutors refuse to drop case against tax office whistleblower Richard Boyle

Christopher Knause – *The Guardian* – 29 April 2021

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Director of public prosecutions was considering ending pursuit of ex-ATO employee who went public with concerns about debt recovery tactics

Commonwealth prosecutors have refused to drop their pursuit of tax office whistleblower Richard Boyle, prompting a withering response from human rights lawyers, who say the case is “profoundly wrong and unjust”.

For the past month, the commonwealth director of public prosecutions [has deliberated on whether](#) to drop the case against Boyle, a former Australian Taxation Office official who blew the whistle on the agency’s use of aggressive tactics to recover debts from small business owners.

Prosecutors on Thursday indicated, however, that they would be proceeding with their case, which could bring a lengthy jail stint for Boyle.

Human Rights Law Centre senior lawyer Kieran Pender said there was simply no public interest in pursuing Boyle. He said the case had placed immense emotional and financial strain on “someone who was only seeking to do the right thing”.

“The prosecution of Richard Boyle is profoundly wrong and unjust,” Pender said in a statement.

“Boyle’s brave decision to speak up helped uncover deeply concerning practices being used by the tax office and was most certainly in the public interest. Yet rather than applaud Boyle, he was prosecuted – hit with 66 charges and up to 160 years in prison.”

Last month, the commonwealth director of public prosecutions, Sarah McNaughton, indicated to parliament that her office was considering dropping the charges against Boyle.

Her comments followed a secret Senate inquiry into the matter, which found the ATO had mounted only a “superficial” response to Boyle’s concerns before he went public to the ABC.

Australia’s whistleblowing laws can provide protection for speaking to the media where concerns are not dealt with in the proper way internally.

“We can indicate that we have received materials and that includes a copy of the Senate report,” McNaughton told Senate estimates last month. “I can also indicate that we have indicated to the court that we will be considering these matters in relation to whether or not the matters should be no-billed [discontinued] within three weeks from the 10th of March.”

The decision was repeatedly delayed. But the matter appeared again before the Adelaide district court for a directions hearing on Thursday and will now continue.

Pender said the case showed the urgent need for reform of Australia's whistleblowing laws.

"The fact someone can be threatened with 160 years' prison for exposing misconduct in the tax office highlights an urgent need for change," he said.

Independent senator Rex Patrick was at court on Thursday in support of Boyle.

"I am proud to stand beside him in support. He is a hero," he told the Guardian.

Patrick has begun discussions with the attorney general, Michaelia Cash, to express his strong view that it was not in the public interest to prosecute whistleblowers.

"The attorney's attention has been drawn to the issue and this may well be her big first test," he said.

Boyle is not the only whistleblower facing prosecution.

Barrister Bernard Collaery and his client, intelligence officer Witness K, are being [prosecuted for their role in revealing](#) the bugging of Timor-Leste during sensitive oil and gas negotiations. An ex-defence lawyer David McBride is also [facing prosecution](#) after handing over a trove of internal defence documents to the ABC. Those documents formed the basis of a series on war crimes.

The federal government has still not enacted reforms five years on from a report into the state of the Public Interest Disclosure Act, named the Moss review.

"Recent events in parliament have underscored the ability of individuals to highlight wrong and unlawful conduct and spark systemic change," Pender said.

"Whistleblowers play a vital role by ensuring transparency and accountability in our democracy. When whistleblowers suffer, our democracy suffers."

The commonwealth director of public prosecutions reduced the number of charges from 66 to 24 last year.