

## [Transcript] The Daily / The Lawyers Now Turning on Trump

From New York Times, I'm Michael Bilbaro.

This is The Daily.

Over the past few days, two of the lawyers who tried to help Donald Trump stay in power after losing the 2020 election pleaded guilty in a Georgia racketeering case and have agreed to cooperate with prosecutors against the former president.

Today, my colleague Richard Fawcett on why Trump's own advisers are now flipping. It's Tuesday, October 24th.

Richard, of all the court cases against Donald Trump, and there are many of them, you told us from the start that the case filed against him in Georgia, accusing him of trying to steal the 2020 election there, was extremely important, largely because of the nature of the prosecution.

It's a racketeering case that treats Trump as the leader of a criminal conspiracy. And the way that these cases work frequently is that in order to convict a person at the top of a case like this, you tend to need lower-level defendants, co-conspirators, to flip, to turn on Trump.

That's right.

And this is what we wondered from the beginning.

Which of these 19 indicted co-conspirators might end up trying to make a deal pleading guilty and agreeing to cooperate with prosecutors?

In fact, a former prosecutor here in Georgia once told us that, you know, imagine this multi-person racketeering conspiracy indictment that lists 19 people and imagine it as a kind of carpet that you roll up from the bottom.

A lot of times, the most prominent figure in a racketeering indictment will be listed as what prosecutors actually sometimes call dude number one.

In this case, it's Donald J. Trump who's dude number one.

And imagine rolling up these smaller, lower-level participants in the alleged scheme who then produce a lot of pressure on the way up.

So there's always a question about who was going to participate, who was going to want to strike a deal, who was going to feel the pressure.

And we started to see an answer to that.

Last month, we saw a guy flip named Scott Hall.

He's this Georgia bail bondsman who's very politically connected, who's one of these seemingly almost random characters who was not very well known until he ends up being indicted, who was just kind of mixed up in all this stuff.

But it's really in the last few days that we've started to feel the momentum build on behalf of prosecutors with the plea deals struck by two lawyers who were deeply involved in the effort to overturn the election in Donald Trump's favor.

So tell us about these two lawyers.

So the first one to take a plea was Sidney Powell, who I think might be the best known to people who were following along on television and elsewhere when Donald Trump was trying to make the case that the election had been stolen from him, which it had not.

Ms. Powell is a former federal prosecutor who'd become a defense attorney.

Sidney Powell is Michael Flynn's lawyer.

She joins us tonight.

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Thank you.

And she got on Donald Trump's radar when she began defending Michael Flynn, the former Trump administration official.

I believe the Department of Justice is withholding a lot of information, as is all of the people who participated in the complete setup of General Michael Flynn.

She was quite pugnacious and good afternoon.

And thank you very much for coming.

Fast forward to November, 2020, after election day, when I finish Sidney Powell and then Jenna Ellis will follow me.

Ms. Powell appears at a news conference with Rudolf Giuliani and others.

There are a lot more lawyers working on this, but we're the, I guess, we're the, we're the senior lawyers.

And she is introduced as a member of this sort of legal dream team for the Donald Trump campaign.

And it's there that she starts laying out some of these rather wild conspiracy theories.

What we are really dealing with here and uncovering more by the day is the interference with our elections here in the United States.

The theories that are pretty well known at this point are just sort of beyond preposterous.

The Dominion voting systems were created in Venezuela at the direction of Hugo Chavez to make sure he never lost an election.

They involve Venezuela, they involve Cuba and China.

Their office in Toronto was shared with one of the Soros entities.

They involve the investor George Soros, the Clintons.

They changed a million votes with no problem.

She talks about how voting machines had flipped millions of votes from Trump to Biden.

President Trump won by a landslide.

We are going to prove it.

And we are going to reclaim the United States of America for the people who vote for freedom.

She later shows up at a meeting in December at the White House, this extremely raucous meeting where all kinds of sort of disturbing ideas are discussed.

And among them is the idea of Sidney Powell being appointed a sort of special counsel to look into these issues of voting, alleged voting fraud and doing something about it.

Right.

So ultimately what Sidney Powell does that lands her in this case is that she becomes a spokesperson for and ultimately an advisor trying to advance these theories of how and why the election was stolen from Donald Trump.

And it wasn't just talk.

She was trying to guide Trump to an outcome that would overturn the election.

Yes.

And according to the indictment, she was also involved in, in fact, as alleged to have directed and paid for a data breach in the elections office in a tiny rural county south of Atlanta called Coffee County, Georgia.

This was an effort by Ms. Powell and others to try to find data that might show that Mr. Trump was indeed right.

And this data breach became the subject of a number of other criminal felony charges against

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her that are also listed in this indictment.

OK, so that's Powell.

Tell us about the second lawyer to turn on Trump in this case.

The second lawyer had a lot less exposure when a lot of this stuff is being kind of fought over on social media and on television.

The January 6 report is now out.

We've got you covered on a lot of the highlights, Bannon, Giuliani, Eastman.

But then there's a name even news junkies might not know well, Kenneth Chesbro.

It's a Harvard trained lawyer by the name of Kenneth Chesbro.

This the person that the committee identified here, the snowed pro-Trump attorney and Kenneth Chesbro, right, is being the original architect of the fake electric spot. Did you hear anything about that?

I did not. Yeah, that was not a name that I was familiar with.

You know, it's this is just very bizarre for me because Ken Chesbro was my law school classmate, someone I I've known for a very long time.

He was known as the cheese in law school, and he is someone who's really practiced very much on his own for many years.

He worked with Mr. Chesbro was involved in drafting a number of memos in the effort to send slates of pro-Trump electoral college electors to Washington to allow for a different outcome to the certification of the election.

This was something that was not happening, you know, on Fox, on CNN, the way it was with Sidney Powell, but in some ways it was really a more substantial effort to create the legal underpinnings to turn the election and Mr. Trump's favor.

Right. And just to remind everyone how this was going to work, the logic of what Chesbro was doing was that he was trying to make sure that if Trump got his way on January 6th, ultimately January 7th, and his vice president, Mike Pence, refused to certify the election in Congress as Trump wanted, that there would be an alternate slate of state electors ready to say that they were behind Trump, even though the popular vote in their states had gone to Biden.

That's right. And his role in setting up these slates of alternate electors was really at the heart of the charges against him and Georgia.

OK, so what do both of these lawyers, Powell, Chesbro, ultimately plead guilty to in Georgia over the past few days?

So it was this very chaotic moment for both lawyers, because when you talk to people who've done this kind of thing before, they'll tell you that a lot of times a plea deal arranging it is kind of like when you're trying to sell a car to somebody. When somebody's starting to say, yeah, I'll take the Buick, you just want to kind of nail him down right there. OK, you're taking the Buick, you're taking it with the sidewalls and blah, blah, blah.

So these plea deals came together quickly and they caught many of us in the press corps unawares.

Can you please state your true and correct legal name?

Sydney Catherine Powell.

You just suddenly had these people showing up in court and entering, please.

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How do you plead to the six counts of conspiracy to commit intentional interference with the forms of election duties?

Guilty.

Sydney Powell pleaded guilty to a number of counts of a misdemeanor, conspiracy to commit intentional interference with performance of election duties, which is a mouthful.

But it was basically misdemeanors related to the fact that she was involved in this caper to work with an elections official in Coffee County, Georgia, to steal the data there.

Has anyone forced to threaten or promise you anything in order to enter into this guilty plea other than what is recited in the documents now?

And a few days later, please lower your hand and state your true and correct legal name. Kenneth John Chesbro.

In the case of Kenneth Chesbro.

How do you plead to count 15 conspiracy to commit filing false documents in indictment number two, three SC one, eight, eight, nine, four, seven guilty.

Have you and your Chesbro pleads guilty to one felony count?

And that count is conspiracy to commit the filing of false documents.

And this is related to the fact that the fake electors slate, the pro-Trump electors slate in Georgia actually filed with federal officials their votes. And the documents said that this was a certificate of the votes of the 2020 electors from Georgia, when, of course, it was not.

All right, good luck, Mr. Chesbro. Thank you so much.

Thank you, Anna.

So they both ended up pleading to much less serious charges than they were originally charged with, which were a number of felonies.

And what is the penalty, the cost to each of these lawyers of pleading guilty to the charges you just described?

Well, both of them are staying out of prison.

Both of them are going to have to do some time on probation, pay various fines.

And each of them was told to write a letter of apology to the people of Georgia.

And as a result of this plea, what kind and what level of cooperation will Powell and Chesbro be required to offer this district attorney in Georgia in return for what clearly sounds like pretty modest sentences?

They've both promised to give up documents.

Presumably, this would include email exchanges, text messages with anyone involved in this case and this alleged conspiracy.

They've each already recorded a statement with prosecutors.

We don't know exactly what's in that statement or those statements, rather, but you're tempted to assume that it's something that's pretty good for the prosecution, given the fact that these were relatively light sentences they got off with.

And, of course, they have agreed to testify truthfully against any of their former co-defendants. That doesn't necessarily mean that they will show up in court for those very dramatic moments where you're pointing to identifying

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your former co-defendants who are still on trial, but it could happen.

Right. Quite possibly they could end up becoming star witnesses against Trump, who just so happens to be the leading Republican presidential nominee in 2024.

And it feels, Richard, worth noting that despite these modest sentences, these plea deals still entail some risk for these lawyers.

I mean, it's unheard of in Trump's universe for people to publicly turn on him, let alone to turn on him in a court case.

And that's because people tend to fear his wrath and the wrath of his supporters, which is real.

Yeah, I think you're right that there could be potentially very steep costs to turning against a very powerful guy, a very powerful, historically rather vindictive guy. But there were also reasons why it probably seemed quite compelling for these people to flip. And these are reasons beyond merely trying to avoid going to prison.

We'll be right back.

So Richard, talk to us about why flipping, why pleading guilty ended up, we think, seeming so compelling to these two lawyers beyond, as you said, their understandable desire to avoid jail time.

Well, this case in Georgia involves a number of lawyers, a number of the 19 original co-defendants were in fact, lawyers, and you guys have probably heard the joke that MAGA in this context stands for making attorneys, get attorneys.

That's been an operative thing here.

And for Sidney Powell and for Kenneth Chesbro, these are people whose personal lives, certainly their professional lives, are fully defined by the fact that they are officers of the court, that they're lawyers.

The concern about getting hit with a felony of such a type of fraud, hit with a felony of such a type that you will end up losing your ability to practice law has been a huge pressure among a number of these people.

Nobody wants to cop to something that's going to have them lose their law licenses.

And that was a possibility for both of them.

It was a possibility for both of them.

And it may well be we're not exactly in a place where we can say with clarity what's going to happen to these two lawyers and their ability to keep practicing law, but by negotiating with prosecutors for a lighter sentence, they've put themselves in a position where they may actually be able to keep their law licenses. Got it.

But there's another factor that probably played into their decision to take a plea.

And that is the fact that hanging in for a trial that the judge had told potential jurors was going to last five months is just an exceedingly expensive proposition.

And unlike Donald Trump, these two folks can't turn to fundraising appeal to their political base and raise the millions that it might have taken for them to pay their lawyers.

Right.

So ultimately, it may not have just come down to the facts of the case.

It may not have come down just to their future as lawyers.

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It may have also come down to a question of money, which is pretty fascinating. Ultimately, both Powell and Chesborough, you're saying they may have ended up pleading guilty here so that they don't lose their livelihood and they don't end up going bankrupt. Yeah.

I mean, a lot of times you hear this from liberal critics of the criminal justice system. When a RICO case is brought against a big gang or alleged members of a gang, there are these moments where these smaller fries are looking at the same kinds of problems that these very prominent lawyers are looking at, facing a very long trial and not having the money to pay for adequate counsel.

The question is, does that really constitute the pursuit of justice?

And of course, two lawyers with pretty healthy incomes aren't the same as some of the folks in the legal system that you are referring to.

But your point is that at the end of the day, these decisions may not be about big questions of whether someone thinks they can win the case or whether they should put up the fight.

But the reality that putting up a serious defense is expensive and intimidating. And sometimes it feels like not really a choice.

Yeah. And in this case, you have a lot of really kind of esoteric questions of constitutional law, the supremacy clause, and when it's right to charge federal officials and the functioning of their duties and all this kind of stuff.

Really kind of fascinating stuff that lawyers are going to be writing law review articles about for decades, if not centuries.

But there also is just this practical matter.

A trial is going to happen.

It's going to cost five months.

The lawyer for these lawyers to charge X.

And are you going to be able to pay X at the end of the day?

This, of course, makes me wonder whether, and if not why, Donald Trump hasn't offered to pay the legal bills for these two lawyers.

It would seem like what's in their best interest here is in his best interest as a co-defendant, he knows very well that the legal strategy here is rolling up the carpet and getting to him, dude number one.

So why isn't he trying to make their financial problems go away here?

That's a great question.

And I don't really have a lot of insight into the mind of former President Trump.

You would think that finding a way to help some of these people fund their defenses would, in fact, help them out.

All we really know is that a number of these folks involved in this indictment have had to turn to super creative means to try to raise the money to pay their legal defenses, like a fundraising website called GiveSendGo.

It's kind of a conservative version of GoFundMe.

There is one very obscure defendant, an Illinois pastor, who, working through his allies, was hoping to receive some funding with a cut of sales from organic

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MAGA honey that is actually packaged in a like a honey bear with Trump's head, where the bear's head would be.

Unexpected.

Yeah.

So it's some, these are serious manifestations of the problem, which is that they need cash to fund their defenses.

Okay.

So I want to end by casting us forward just a little bit.

As you said at the start of this conversation, this legal strategy from the district attorney here in Georgia seems to be working so far.

And I wonder if we should then assume that there's a domino effect and that the rest of the co-defendants, especially those lower down on the long list, watch Powell and Chespero flip and think, well, I got to get my deal now.

And that that becomes a pretty virtuous cycle for the district attorney.

So should we expect a series of guilty pleas over the coming many weeks and months, adding up to a very problematic situation for Donald Trump?

We are waiting and watching.

There are a number of people who are probably in a much worse financial position than either Kenneth Chesbro or Sydney Powell, who just don't have any money at all, the possibility of them sitting through a trial that would last many, many months and trying to find a way not only to pay attorneys fees, but just to find an Airbnb or to find a motel or a hotel to stay in for six months in Georgia could be just tremendously painful for them economically.

And in fact, it could be just virtually impossible.

So although we don't know exactly who might flip next or whether anyone will flip next, we're certainly watching pretty closely.

And if you're Trump, you're watching very, very closely.

And I have to think your legal strategy is starting to adjust to the reality that your alleged co-conspirators are becoming your enemies in that courtroom.

That's right.

And I think there are still a number of ways in which Donald Trump's lawyers are seeing a way out of this, either trying to find a way to maneuver things in such a way that the case never goes to trial here based on some constitutional principles. Maybe this case gets before the Supreme Court, before a jury in Fulton County, Georgia can really rule on his fate.

And I think there are unresolved questions that remain in this trial.

Some of them have to do with state of mind, with whether or not prosecutors can successfully show a jury that Donald Trump really knew he lost this election and yet pushed as hard as he could to say he was the winner and to, in fact, try to take it. Anyway, we don't really know exactly what some of this new cooperation means for that very central question.

But in general terms, none of this is good for Donald Trump.

We have two lawyers who were deeply involved in various elements of the effort to keep him in power.

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And now they're talking to prosecutors.

Over to you. Thank you very much. Thanks, Michael.

We'll be right back.

Here's what else you need to know today. On Monday, Israel's military struck hundreds of targets in Gaza in one of its biggest barrages since its war with Hamas began. Hamas now claims that such airstrikes have killed more than 5,000 Palestinians since October 7th, when Israel began retaliating for a Hamas attack that killed 1,400 Israelis. Despite the perception that an Israeli ground invasion of Gaza is imminent, the Times reports that the Biden administration has advised Israel to delay such an offensive. That delay is designed to allow for more humanitarian aid to enter Gaza and to give Hamas more time to release the hostages that it's holding there.

On Monday night, Hamas released two more of those hostages, both elderly women who had been abducted at a Kibbutz in southern Israel.

And the union representing striking American auto workers told nearly 7,000 employees at a pickup truck plant in Michigan to walk off the job in a major escalation of its six-week-long strike against Detroit's big three automakers. The walkout is especially disruptive because the plant, owned by Stellantis, makes the Ram 1500 one of the best-selling pickup trucks in the country.

To end the strike, the union is demanding significantly higher wages and the reinstatement of traditional pensions for retiring workers.

Today's episode was produced by Claire Tennisketer and Rob Zivko.

It was edited by Lisa Chow, contains original music by Marion Lazano and Dan Powell, and was engineered by Chris Wood.

Our theme music is by Jim Brunberg and Ben Lansberg of Wanderley.

That's it for the Daily.

I'm Michael Bavaro.

See you tomorrow.