Sidney Powell's secret 'military intelligence expert,' key to fraud claims in election lawsuits, never worked in military intelligence

Attorney Sidney Powell speaks at a news conference on election results in Alpharetta, Ga., on Dec. 2. (Elijah Nouvelage/Reuters)

By Emma Brown, Aaron C. Davis, and Alice Crites
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The witness is code-named "Spyder." Or sometimes "Spider." His identity is so closely guarded that lawyer Sidney Powell has sought to keep it even from opposing counsel. And his account of vulnerability to international sabotage is a key part of Powell's failing multistate effort to invalidate President-elect Joe Biden's victory.

Powell describes Spyder in court filings as a former "Military Intelligence expert," and his testimony is offered to support one of her central claims. In a declaration filed in four states, Spyder alleges that publicly available data about server traffic shows that voting systems in the United States were "certainly compromised by rogue actors, such as Iran and China."

Spyder, it turns out, is Joshua Merritt, a 43-year-old information technology consultant in the Dallas area. Merritt confirmed his role as Powell's secret witness in phone interviews this week with The Washington Post.

Records show that Merritt is an Army veteran and that he enrolled in a training program at the 305th Military Intelligence Battalion, the unit he cites in his declaration. But he never completed the entry-level training course, according to Meredith Mingledorff, a spokeswoman for the U.S. Army Intelligence Center of Excellence, which includes the battalion.

"He kept washing out of courses," said Mingledorff, citing his education records. "He's not an intelligence analyst."

In an interview, Merritt maintained that he graduated from the intelligence training program. But even by his own account, he was only a trainee with the 305th, at Fort Huachuca in Arizona, and for just seven months more than 15 years ago.

His separation papers, which he provided to The Post, make no mention of intelligence training. They show that he spent the bulk of his decade in the Army as a wheeled vehicle mechanic. He deployed to the wars in Iraq and Afghanistan, where he said he worked in security and route clearance. He held the rank of specialist when he was honorably discharged in 2013, having received several commendations.

Merritt acknowledged that the declaration's description of his work as an "electronic intelligence analyst under 305th Military Intelligence" is misleading. He said it should have made clear that his time in the 305th was as a student, not as a working intelligence expert.

He blamed "clerks" for Powell's legal team, who he said wrote the sentence. Merritt said he had not read it carefully before he signed his name swearing it was true.

"That was one thing I was trying to backtrack on," he said on Thursday. "My original paperwork that I sent in didn't say that."

On Friday afternoon, as his name increasingly circulated on social media, Merritt said he had decided to remove himself from the legal effort altogether. He said he plans to close his business and relocate with his family.

Asked about Merritt's limited experience in military intelligence, Powell said in a text to The Post: "I cannot confirm that Joshua Merritt is even Spider. Strongly encourage you not to print."

Of her description of him as a military intelligence expert, she said, "If we made a mistake, we will correct it."

Federal judges have in the past week rejected all four of the complaints Powell has filed seeking to overturn the presidential election — lawsuits popularly known as the "kraken" suits, after a mythical sea creature she has harnessed as a sort of mascot — ruling either that the challenges should have been filed in state courts or were meritless.

In Michigan, attorneys for the state argued that Powell's complaint was based on "fantastical conspiracy theories" that belong in the "fact-free outer reaches of the Internet." A federal judge ruled this week that the allegation that votes were changed for Biden relied on an "amalgamation of theories, conjecture, and speculation."
A federal judge in Arizona similarly tossed out a case Wednesday that relied in part on an affidavit from Merritt, writing that allegations "that find favor in the public sphere of gossip and innuendo cannot be a substitute for earnest pleadings and procedure in federal court" and "most certainly cannot be the basis for upending Arizona's 2020 General Election."

Powell is appealing all four of those losses.

President- elect Joe Biden in Wilmington, Del., on Dec. 9. (Demetrius Freeman/The Washington Post)

Merritt told The Post that, because judges are dismissing the cases without giving the Powell team a chance to fully present evidence, "we're just going to supply the evidence through other directions," including to lawmakers and members of the intelligence community. He said Russell Ramsland, a former colleague and fellow witness for Powell, had asked him to brief Rep. Louie Gohmert (R-Tex.), a leading proponent of fanciful claims about the 2020 election.

Gohmert did not respond to a request for comment.

The 305th Military Intelligence Battalion at Fort Huachuca has taken on a special significance among supporters of Powell's lawsuits. Some popular conspiracy theories contend that the unit — rather than Merritt, a former member who was discharged years ago — has determined that China and Iran manipulated the U.S. vote. In late November, Thomas McInerney, a retired lieutenant general in the Air Force and a proponent of election fraud claims, said that President Trump and Powell have "got the 305th Military Intelligence Battalion working with them" and that "the Kraken is the 305th Military Intelligence Battalion."

The battalion is an entry-level training unit. It has not had an operational mission since World War II. Mingledorff said soldiers there "do not collect, analyze or provide intelligence in any way."

Army records provided by Merritt show that he enlisted in 2003. He first aimed to be a medic, but did not graduate from a training program at Fort Sam Houston in Texas, according to records in the Army Training Requirements and Resource System, Mingledorff said. He was "recycled," or allowed to repeat the training course — but again did not graduate, she said, citing the records.

In 2004, Merritt transferred to the 305th Military Intelligence Battalion, the records show. He had a spot reserved in an electronic intercept analyst course with the 305th, but records show he did not meet the prerequisites and was dropped from the program, Mingledorff said.

Merritt's military separation papers show that he completed three education courses — two involving work on wheeled vehicles and one on leadership.

Merritt told The Post he completed the medic and intelligence trainings as well. He said that for both programs, the particular career path he was studying for changed by the time his training ended. He maintained that this pattern left him in a sort of military bureaucratic limbo, in the service but without a specific job until he became a wheeled vehicle mechanic in 2005.

He provided a document labeled "unofficial transcript" that he said showed that he completed the intelligence and medic courses. Mingledorff declined to comment on that document but said the records she examined were clear.

Army education records also show several distance-learning and in-person trainings over the course of his service, many of which were not completed, Mingledorff said.

He said he was unable to complete some online courses while serving overseas because of the demands of his job.

Merritt was honorably discharged from the Army in 2013, after a decade of service, including deployments to the wars in Iraq in 2005-2006 and Afghanistan in 2009-2010, according to his separation papers. His commendations included the Combat Action

Badge, which is authorized for soldiers who are "present and actively engaging or being engaged by the enemy, and performing satisfactorily in accordance with prescribed rules of engagement."

Merritt told The Post he left the military because he had had reached a "retention control point" and was unlikely to be promoted. Under Army rules, soldiers are only permitted to serve a certain number of years at a particular rank.

Merritt said cybersecurity was a hobby when he was in the Army, and it became a profession once he was out. He said he is neither a Republican nor a Democrat but a "Constitutionalist" who is just trying to do his part to ensure fair elections in the United States. "Right now you're looking at two political parties that all they care about is power, they don't care about people," he said. "I swore my life to my Constitution and that's what I keep it at."

He used his GI Bill funds to study network security administration at ITT Tech in Arlington, Tex. He said he earned an associate degree from the school, part of a nationwide chain of for-profit colleges that shut down in 2016.

He went on to intern and work in several positions related to cybersecurity, he said. In 2017, he joined a small Dallas-area firm called Allied Special Operations Group, where Ramsland says he is part of the management team.
Merritt said it was there that he began to work on election security and came to believe the system was rife with vulnerabilities. Soon, he said, he was a frequent guest in right-wing videos, appearing under the pseudonym "Jekyll," in shadow and with his voice disguised as he warned that the U.S. election system was vulnerable to being corrupted on a massive scale.

In 2018, he said, he helped investigate what he described as suspected fraud in races affecting five candidates, including former Kentucky governor Matt Bevin (R) and former Texas congressman Pete Sessions (R). Merritt said he found many elections-related companies plagued by vulnerabilities.

Bevin did not respond to a request for comment.

In a phone interview, Sessions described Merritt as a "top, top computer forensic expert."

After two decades in Congress, Sessions's 2018 loss to Democrat Colin Allred, a former professional football player, was viewed by some on election-conspiracy sites as implausible. Merritt said he worked behind the scenes, conducting election-fraud analysis. Sessions would not disclose Merritt's precise work or whether he was paid, but said of Merritt: "He may have been involved in certain elements of that. It is true there were people who were aware of those things."

Rep.-elect Pete Sessions (R-Tex.) speaks on the phone as he arrives to the Hyatt Regency hotel on Capitol Hill in November. Sessions won a different district's election last month and will return to Congress in January. (Sarah Silbiger/Getty Images)

Sessions won a comeback victory in November and will return to Congress next year. He said he was unswayed by the Army's disclosure that Merritt had never completed electronic intelligence training.

"Get the best computer expert you know, have him call and query Josh. Josh will run circles around that person," Sessions said.

No charges were brought in connection with these allegations, Merritt said.

Merritt formed his own firm, Cyberoptyx, in 2019. He said the company — which consists of himself and a handful of contractors — specializes in building "cyberinfrastructure" such as making websites and setting up servers. It also does 3-D printing.

Merritt said he became involved in the Powell litigation through Ramsland. Ramsland has also submitted affidavits as part of Powell's lawsuits, including one that drew attention for mistakenly using voting data from Minnesota to allege evidence of voter fraud in Michigan.

Merritt said he provides information to Powell's legal team through intermediaries he knows only by username. He said he is not being paid for his work on the case.

Ramsland did not respond to messages left at his home or on a cellphone registered in his name.

Merritt said he had sought to stay anonymous because he feared for the safety of his family if his name became known. Someone came up with his pseudonym based on the spider-like shape of the diagrams in his declaration, he said.

His name slipped into the court record, though little noticed, on Nov. 25. The Powell team filed a carefully redacted declaration from its secret witness, but a bookmark in the file uploaded to the court's computer system was visible: "Declaration of JOSHUA MERRITT."

"One jackwagon forgot to clear out the data. I was really pissed," Merritt said. "The guy was like, 'I'm sorry,' and I was like, 'Well, you know, that and a bag of chips will still leave me hungry.'"

On Wednesday night, after a Reuters reporter tweeted about that flub and drew widespread attention to his name, Merritt was bracing for what might come. "This is not the 15 minutes I wanted," he said.

Aaron Schaffer, Aaron Blake, Dan Lamothe and Dalton Bennett contributed.

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