

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF RICE

THIRD JUDICIAL DISTRICT

Case Type: Other Civil

Benda for Common-sense, a Minnesota
Non-Profit Corporation, and Kathleen
Hagen,

Court File No. 66-CV-22-2022

Judge: Carol M. Hanks

Plaintiffs,

vs.

**ORDER TO PROHIBIT THE USE OF
MODEMS IN RICE COUNTY
ELECTRONIC VOTING SYSTEMS**

Denise Anderson, Director of Rice County
Property and Tax Elections,

Defendant.

The Motion of Plaintiffs for an Order to Correct Errors and Omissions pursuant to Minn. Stat. 204B.44, came on for review by the Court by hearing on October 26, 2022 before the Honorable Judge Carol M. Hanks. Plaintiffs were represented by attorney Matthew L. Benda of Peterson, Kolker, Haedt & Benda, Ltd. Defendant was represented by attorney Ann R. Goering of Ratwick, Roszak & Maloney, P.A.

The Court having heard arguments of counsel for the parties, reviewed the moving papers and written opposition to the motion for relief and being fully advised in this matter, makes the following:

FINDINGS OF FACT

1. Rice County currently utilizes Electronic Voting System machines referred to as DS-200s and DS-450.
2. The DS-200s and DS-450 contain internal wireless modems.

3. All Electronic Voting Systems are required to be certified by the Office of the Secretary of State pursuant to Minn. Stat. 206.57.
4. As required by Rice County Resolution #22-046, all Rice County election hardware and software must be “certified and approved” by “test labs accredited by the U.S. Election Assistance Commission and undergo detailed additional testing by the Office of the Minnesota Secretary of State.”
5. The Electronic Voting Systems certification documents from the Office of the Secretary of State specifically state, “This certification does not cover any modeming functions...”
6. Defendant, Denise Anderson, intends to utilize and further instruct election officials to utilize the wireless modems on the DS-200s and DS-450 in upcoming elections.

CONCLUSION OF LAW

7. Defendant Anderson’s intended use of the uncertified wireless modems imbedded in the DS-200s and DS-450 in upcoming elections is an “error” under Minn. Stat. 204B.44, which shall be corrected pursuant to this Order.

Based upon the foregoing, together with the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

- a. Defendant is prohibited from using any modem function in all DS-200 Electronic Voting System used in voting precincts in Rice County.

- b. Defendant is prohibited from using any modem function in the DS-450 Electronic Voting System used at the Rice County Counting Center.
- c. Defendant shall submit to the Court a certification from the manufacturer of the Rice County Electronic Voting Systems that the modem function on said machines has been disabled or otherwise made inoperable.
- d. That this Order be published on the Rice County Elections website and the local newspaper and that every election official in Rice County be provided a copy of this Order.

BY THE COURT

Carol M. Hanks
Judge of District Court

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