

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL STEVE COX,  
Petitioner,

vs.

THE SEVENTH JUDICIAL  
DISTRICT COURT OF THE STATE  
OF NEVADA, IN AND FOR THE  
COUNTY OF WHITE PINE; AND  
THE HONORABLE DAN L. PAPEZ,  
DISTRICT JUDGE,

Respondents,

and

E.K. MCDANIEL,  
Real Party in Interest.

No. 57776

**FILED**

**JUN 07 2011**

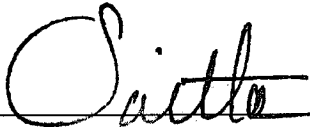
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

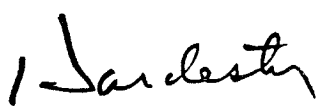
ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original proper person petition for a writ of mandamus challenges the district court's failure to resolve petitioner's action. Having reviewed the petition and its attachments, we are not persuaded that extraordinary relief is warranted. NRAP 21(b)(1); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). In particular, petitioner, as the plaintiff, not the district judge, was charged with the duty of promptly pursuing the underlying action. Allyn v. McDonald, 117 Nev. 907, 912, 34 P.3d 584, 587 (2001) (stating that NRCP 41(e) dismissals will generally be upheld "without regard to the plaintiff's reasons for allowing the mandatory period to lapse"); Johnson v. Harber, 94 Nev. 524, 526, 582 P.2d 800, 802 (1978) (explaining that it is the plaintiff's duty to ensure

that their case is brought to trial within the NRCP 41(e) period.  
Accordingly, we

ORDER the petition DENIED.

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Dan L. Papez, District Judge  
Michael Steve Cox  
Attorney General/Carson City  
White Pine County Clerk