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FILE: EAC 05 194 51888 Office: VERMONT SERVICE CENTER Date: **NOV 28 2007**

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. The matter is now before the AAO. The appeal will be summarily dismissed.

The petitioner is a law firm and seeks to employ the beneficiary as a legal assistant. Accordingly the petitioner endeavors to classify the beneficiary as a nonimmigrant pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

On December 4, 2006, the director denied the petition determining: (1) that the Department of Labor's *Occupational Outlook Handbook (Handbook)* did not report that a paralegal position is an occupation that requires a baccalaureate level of education in a specific specialty as a normal minimum for entry into the occupation; (2) that the petitioner submitted evidence confirming the *Handbook's* report that a bachelor's degree in a specific field of study is not the normal minimum requirement acceptable for the position of a legal assistant or paralegal; (3) that the petitioner had not submitted evidence to demonstrate that a degree in a specific field of study is required to perform the duties of a paralegal at this time; (4) that the petitioner had not submitted sufficient evidence establishing that it had previously hired individuals for a position similar to the proffered position; and (5) that the petitioner had not presented evidence distinguishing the proffered position due to the specialized and complex nature of its duties from the duties of a paralegal as generally described in the *Handbook*. The director concluded that the petitioner had not established that the day-to-day duties of a legal assistant employed by the petitioner would require the individual employed to possess a theoretical and practical application of a body of highly specialized knowledge in a specific field of study.

The record of proceeding before the AAO contains: (1) the Form I-129 filed June 24, 2005 with supporting documentation; (2) the director's October 27, 2005 request for further evidence (RFE); (3) the petitioner's January 5, 2006 response to the director's RFE; (4) the director's December 4, 2006 denial letter; and (5) the Form I-290B, Notice of Appeal, date stamped as received by the Vermont Service Center on December 21, 2006. Counsel for the petitioner indicates on the Form I-290B that a separate brief or evidence is not being submitted.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

Counsel's statement on the Form I-290B reads:

The Service has erred in its analysis and denial of this H-1B petition. The "specialty occupation" nature of the position offered was extensively outlined in a seven page letter from the employer dated January 5, 2006, and with extensive accompanying documentation. The arguments and evidence is incorporated herein by reference. The petitioner seeks review of documentation and letter.

Counsel fails to specify how the director's decision included an erroneous conclusion of law or statement of fact when denying the petition. Merely asserting the decision is in error and relying on the information submitted in response to the director's RFE is not sufficient as a basis for appeal. As neither the petitioner nor counsel presents

additional evidence or argument on appeal sufficient to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v). The appeal will be summarily dismissed. The petition will be denied.

The burden of proof in this proceeding rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed. The petition is denied.