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U.S. Citizenship  
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FILE: SRC 05 800 35324 Office: TEXAS SERVICE CENTER Date: NOV 20 2007

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(iii) of the  
Immigration and Nationality Act

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a law firm. It seeks to employ the beneficiary as a secretary/paralegal, and states that it endeavors to classify her as a nonimmigrant worker in a specialty occupation 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). The initial petition indicated that the petition was being filed in the trainee classification pursuant to section 101(a)(15)(H)(iii) of the Act, 8 U.S.C. § 1101(a)(15)(H)(iii).

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The petitioner filed an H-3 petition on or about September 28, 2005 seeking the beneficiary's approval as a trainee in an administrative support position. In response to the director's request for evidence, the petitioner stated that it had intended to file an H-1B petition on behalf of the beneficiary, but that electronic filing of an H-1B petition could not be accomplished at that time. The petitioner asked that the petition be amended to an H-1B petition. The director denied the petition stating that the petitioner had not established that the beneficiary was entitled to H-3 classification. Further, the director declined to change the classification from the H-3 petition filed, to that of H-1B, noting that a new petition must be filed based on a material change of the classification/petition sought. The petitioner offers no other argument in support of the appeal other than that it erroneously filed a petition for a classification that it was not seeking. The petitioner did not identify any erroneous conclusion of law or statement of fact upon which the appeal is based. As such, the appeal must be dismissed.

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 dismissed. The petition is denied.