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U.S. Citizenship
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Services

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FILE: EAC 07 019 51525 Office: VERMONT SERVICE CENTER Date: **JAN 25 2009**

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

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

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.

A handwritten signature in black ink that reads "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The petitioner is an accounting services firm that seeks to employ the beneficiary, a citizen of Australia, as an account executive. The petitioner, therefore, endeavors to change the beneficiary's current nonimmigrant status under 8 C.F.R. § 248.3(a) so that she may perform services as a professional pursuant to section 101(a)(15)(E)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(E)(iii).

The director denied the application and incorrectly advised the petitioner that the decision could be appealed to the AAO.

A request for change of status and extension of stay under section 501 of the Real ID Act of 2005¹ is not a petition within the meaning of section 214(c)(1) of the Act, 8 U.S.C. § 1184(c)(1), and does not confer any of the appeal rights normally associated with a petition. The Form I-129 in this context is merely the vehicle by which information is collected to make a determination on the change of status application. A change of status application is adjudicated under the regulation at 8 C.F.R. § 248.3(a).

The regulation at 8 C.F.R. § 248.3(g) states the following:

Denial of application. When the application is denied, the applicant shall be notified of the decision and the reasons for the denial. There is no appeal from the denial of the application under this chapter.

The AAO has no jurisdiction over this matter. Therefore, the appeal will be rejected.

ORDER: The appeal is rejected.

¹ The E-3 visa category was created by section 501 of the Real ID Act of 2005, Pub. L. No. 109-13, Div. B, 119 Stat. 231 (May 11, 2005).