U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: FEB 23 2015 Office: NEBRASKA SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as an "alien of extraordinary ability" in the arts, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), which makes visas available to aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. The director determined that the petitioner had not satisfied the initial evidence requirements set forth at 8 C.F.R § 204.5(h)(3), which requires documentation of a one-time achievement or evidence that meets at least three of the ten regulatory criteria.

On appeal, the petitioner submits a statement with new documentary evidence. For the reasons discussed below, we agree that the petitioner has not established his eligibility for the exclusive classification sought. Specifically, the petitioner has not submitted qualifying evidence of a one-time achievement pursuant to 8 C.F.R. § 204.5(h)(3), or evidence that satisfies at least three of the ten regulatory criteria set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x). As such, the petitioner has not demonstrated that he is one of the small percentage who are at the very top in the field of endeavor, and that he has sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2), (3). Accordingly, we will dismiss the petitioner's appeal.

I. LAW

Section 203(b) of the Act states, in pertinent part, that:

> (1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> (A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --
>
> (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
>
> (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
>
> (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals

seeking immigrant visas as aliens of extraordinary ability. *See* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.*; 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate the alien's sustained acclaim and the recognition of the alien's achievements in the field through evidence of a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then a petitioner must submit sufficient qualifying evidence that meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

The submission of evidence relating to at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the evidence is first counted and then, if satisfying the required number of criteria, considered in the context of a final merits determination). *See also Rijal v. USCIS,* 772 F.Supp.2d 1339 (W.D. Wash. 2011) (affirming USCIS' proper application of *Kazarian*), *aff'd*, 683 F.3d. 1030 (9th Cir. 2012); *Visinscaia v. Beers*, 4 F.Supp.3d 126, 131-32 (D.D.C. 2013) (finding that USCIS appropriately applied the two-step review); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that USCIS examines "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true").

II. ANALYSIS

A. Translations

The regulation at 8 C.F.R. § 103.2(b)(3) states: "Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English."

While not addressed by the director in his decision, the petitioner submitted translations that do not comply with the regulation. Instead, the translations are accompanied by a single April 4, 2014 blanket certification from [redacted] that does not identify any specific document. A blanket certification that does not identify the translations it is certifying is not probative evidence that the certification relates to all of the translations in this record of proceeding. In fact, Mr. [redacted] does not appear to have completed all of the translations in the record because the translation of the article that appeared in [redacted] lists a different translator, [redacted] who did not certify his translation. Accordingly, the petitioner has not established which translations Mr. [redacted] completed and is certifying. Because these translations do not comply with 8 C.F.R. § 103.2(b)(3), they have significantly diminished probative value. Even if the translations satisfied the regulation, the director correctly concluded that the petitioner's evidence does not establish eligibility.

B. Previously Approved O-1 Petition

While USCIS has approved at least one O-1 nonimmigrant visa petition filed on behalf of the petitioner, the prior approval does not preclude USCIS from denying an immigrant visa petition based on a different, if similarly phrased, standard. First, 8 C.F.R. § 214.2 (o)(3)(iv), relating to nonimmigrant aliens of extraordinary ability in the arts, provides for entirely different criteria than those for the immigrant classification discussed below. Thus, the beneficiary could meet the nonimmigrant criteria and not the ones necessary for immigrant classification. The regulatory requirements for an immigrant and non-immigrant alien of extraordinary ability in the arts are dramatically different. 8 C.F.R. § 214.2(o)(3)(ii) defines extraordinary ability in the arts (including the performing arts) as simply "distinction," which is further defined as follows:

> Distinction means a high level of achievement in the field of arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts.

The regulation relating to the immigrant classification, 8 C.F.R. § 204.5(h)(2), however, defines extraordinary ability in any field as "a level of expertise indicating that the individual is on of that small percentage who have risen to the very top of the field of endeavor." While the ten immigrant criteria set forth at 8 C.F.R. § 204.5(h)(3) appear in the nonimmigrant regulation at 8 C.F.R. § 214.2(o)(3)(iii), they refer only to aliens who seek extraordinary ability in the fields of science, education, business or athletics. Rather, separate criteria for nonimmigrant aliens of extraordinary ability in the arts are set forth in the regulation at 8 C.F.R. § 214.2(o)(3)(iv). The distinction between these fields and the arts, which appears in 8 C.F.R. § 214(o) does not appear in 8 C.F.R. § 204.5(h). As such, the petitioner's approval for a non-immigrant visa under the lesser standard of "distinction" is not evidence of his eligibility for the similarly titled immigrant visa.

C. Evidentiary Criteria[1]

> *Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.*

This criterion contains multiple evidentiary requirements the petitioner must satisfy. First, the published material must be about the petitioner and the contents must relate to the petitioner's work in the field under which he seeks classification as an immigrant. The published material must also appear in professional or major trade publications or other major media. Professional or major trade

[1] We have reviewed all of the evidence the petitioner has submitted and will address those criteria the petitioner claims to meet or for which the petitioner has submitted relevant and probative evidence.

publications are intended for experts in the field or in the industry. To qualify as major media, the publication should have significant national or international distribution and be published in a predominant national language. The final requirement is that the petitioner provide each published item's title, date, and author and if the published item is in a foreign language, the petitioner must provide a translation that complies with the requirements found at 8 C.F.R. § 103.2(b)(3). The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The director determined that the petitioner did not meet the requirements of this criterion. The petitioner asserts that his evidence submitted before the director sufficiently meets this criterion's requirements and revisits the previously submitted evidence. The petitioner also offers additional evidence on appeal.

Some of the petitioner's evidence to demonstrate that the published material is a form of major media derives from *Wikipedia*. With regard to information from *Wikipedia*, there are no assurances about the reliability of the content from this open, user-edited internet site.[2] *See Lamilem Badasa v. Michael Mukasey,* 540 F.3d 909 (8th Cir. 2008). Therefore, this documentary evidence carries no evidentiary weight within the present proceedings. Other evidence relating to this issue derives from answers.com. With regard to information from answers.com, this website offers a disclaimer similar to that of *Wikipedia* regarding the unreliability of the information contained on its website.[3] *Cf. id.* Therefore, this documentary evidence also carries no evidentiary weight within the present proceedings.

[2] Online content from *Wikipedia* is subject to the following general disclaimer, "WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY. *Wikipedia* is an online open-content collaborative encyclopedia, that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information. . . . *Wikipedia* cannot guarantee the validity of the information found here. The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields.
See http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on February 5, 2015, a copy of which is incorporated into the record of proceeding.

[3] Online content from answers.com is subject to the following general disclaimer, "No Guarantee of Validity[:] The contents of all material available on Answers.com®, WikiAnswersTM and AnswerTipsTM and other related services (collectively, the "Services") of Answers Corporation ("Answers") are intended to provide useful information for its users. While Answers makes every effort to present accurate and reliable information in its Services, Answers does not endorse, approve, or certify such information, nor does it guarantee the accuracy, completeness, efficacy, timeliness, or correct sequencing of such information. Information in the Services may or may not be current as of the date of your access, and Answers has no duty to update and maintain the information, reports, or statements on the Services. . . . Answers allows ANYONE at any time to write and edit content in this service." *See* http://wiki.answers.com/about/disclaimer.html, accessed on February 5, 2015, a copy of which is incorporated into the record of proceeding.

The petitioner provided an article posted on the website for . The published material is about the petitioner and relates to his work. Regarding the posting of articles on the Internet, in today's world, many news entities, including local ones, post at least some of their stories on the Internet. International accessibility by itself is not a realistic indicator of whether a given publication is "major media." The petitioner has not established that the website of this local television station qualifies as major media because the record lacks evidence that the site routinely attracts national or international readership beyond the audience of the local television station. The supporting evidence the petitioner provides is about itself being a joint venture between and rather than the website for As such, this supporting evidence does not demonstrate the website for constitutes major media.

The evidence from the is about the petitioner and relates to his work in the field. Supporting evidence for the submitted in response to the RFE reflects that it is a local publication, stating that it offers "the best local report available." The evidence further states: " has prospered in County . . . Home delivery covers all of County, a portion of County and County." Publications with only a local reach are not generally considered to be major media and the petitioner has not established that this publication is a professional or major trade publication as required by the regulation.

The petitioner provided evidence relating to the Internet-based publication, . The initial evidence establishes that the article titled ' ' is about the petitioner and relates to his work in the field. However, the supporting initial evidence derives from *Wikipedia*, which, as stated above, is not probative. In response to the RFE, the petitioner provides additional evidence relating to This evidence from the parent company of indicates the publication has occupied a prominent place in the newspaper landscape in the neighboring cities of and municipality since its foundation in the year . While this evidence states the publication has "the high regard of a wide readership," the evidence also reflects that it is a local or regional publication along with its local editions from several locales. On appeal, the petitioner provided information from answers.com relating to the publisher. However, as discussed above, that information deriving from answers.com is not probative within the present proceedings. Regardless, the materials reflect that publishes several publications and "dominates the local newspaper market, publishing all the city's [sic] major newspapers," including This information does not reflect that has a significant national distribution. The petitioner has not established the circulation data of to compare with the circulation statistics of other German newspapers, and he has consequently not established that is a form of major media. *See Noroozi v. Napolitano*, 905 F.Supp.2d 535, 545 (S.D.N.Y. 2012). While the article appears on website, as discussed above, international accessibility by itself is not a realistic indicator of whether a given publication is "major media." Similar to , the petitioner has not demonstrated that the reach of is significantly greater than the readership of the print version.

The article from that the petitioner provided at the time he filed the petition is about him and relates to his work in the field for which classification is sought. However, this evidence does not reflect that the publication is distributed outside of the and County, Florida area. Evidence the petitioner submitted in response to the RFE from the magazine's website reflects that this magazine is a regional publication. On appeal, the petitioner provides additional evidence pertaining to the magazine, which also reflects this publication is limited to a particular region of Florida. As noted above, publications with only a regional reach are not generally considered to be major media and the petitioner has not established that this publication is a professional or major trade journal as required by the regulation.

Further, with respect to the February 12, 2014 material that appears on the website which is the website for a Florida, publication, the petitioner submitted *Wikipedia* material about the formerly the until October 15, 2013 according to the material. The petitioner has not explained the relevance of materials about this international publication whose previous name was similar to the Florida publication that featured an article about the petitioner.

Within the petitioner's appellate statement he asserts that the regional nature of a media outlet does not mean that it is not a professional publication, or a major trade publication. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici,* 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California,* 14 I&N Dec. 190 (Reg'l Comm'r 1972)). The petitioner points to evidence relating to each publication's reputation and circulation statistics as support.

The regulation at 8 C.F.R. § 204.5(h)(3)(2) provides the following definition of a professional:

> *Profession* means one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.

A professional publication is, therefore, one that is related to occupations that are listed in section 101(a)(32) of the Act, or those that require a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation. The petitioner has not submitted evidence to establish that his occupation as an actor meets this definition. A trade publication is also known as a specialized, industry-specific, or special interest periodical. Even assuming that some of the petitioner's evidence could qualify as a trade publication, he did not submit evidence demonstrating that any publication constitutes a major trade publication.

The remaining evidence on record is either (1) not about the petitioner, relating to his work in the field of acting; (2) supported by documents derive from *Wikipedia* or or (3) in a foreign language and not accompanied by a certified translation in accordance with the regulation at 8 C.F.R. § 103.2(b)(3).

The petitioner has not submitted evidence that meets the plain language requirements of this criterion.

> *Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

The plain language of this regulatory criterion contains multiple evidentiary elements that the petitioner must satisfy. The first is evidence of the petitioner's contributions in his field. These contributions must have already been realized rather than being potential, future contributions. The petitioner must also demonstrate that his contributions are original. The evidence must establish that the contributions are scientific, scholarly, artistic, athletic, or business-related in nature. The final requirement is that the contributions rise to the level of major significance in the field as a whole, rather than to a project or to an organization. Regardless of the field, the plain language of the phrase "contributions of major significance in the field" requires evidence of an impact beyond one's employer and clients or customers. *See Visinscaia*, 4 F. Supp. 2d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole). The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

Throughout the proceedings, the petitioner relies on comparable evidence under this criterion. Specifically, the petitioner asserts that his contributions as an actor, script writer and host are of major significance to the U.S. economy. The director determined that the petitioner did not meet the requirements of this criterion.

The regulation at 8 C.F.R. § 204.5(h)(4) allows an alien to submit comparable evidence if the petitioner is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to his occupation. When evaluating comparable evidence, we consider whether the criteria listed at 8 C.F.R. § 204.5(h)(3) are readily applicable to the claimed occupation and, if not, whether the evidence provided is comparable to the criteria listed in that regulation. General assertions that the ten objective criteria described in 8 C.F.R. § 204.5(h)(3) do not readily apply to the alien's occupation are not probative. It is the petitioner's burden to explain why the regulatory criteria are not readily applicable to his occupation and how the evidence submitted is "comparable" to the objective evidence required at 8 C.F.R. § 204.5(h)(3)(i)-(x). The regulation at 8 C.F.R. § 204.5(h)(3)(v) specifically recognizes artistic contributions. As the petitioner has only stated that the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(v) does not readily apply to his occupation, and he has not provided any evidence or discussion to support his statement, the petitioner may not rely on comparable evidence to qualify for this immigrant classification. As stated above, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici,* 22 I&N Dec. at 165 (citing *Matter of Treasure Craft of California,* 14 I&N Dec. at 190).

Moreover, even if this criterion were not applicable to the petitioner's occupation and assuming a contribution of major significance to the economy is comparable to a contribution of major significance to a specific field, the petitioner has not established his individual impact on the economy. While the petitioner submits evidence discussing an increase in tourism from Germany that coincides with the

petitioner's promotional work in this area, the petitioner has not demonstrated that this increase is due to the petitioner's original contributions to tourism promotion. First, the May 11, 2014 article pertaining to an increase of German speaking tourists in 2013 to Florida, does not identify the petitioner's promotions as the cause. Rather, in addition to , the article notes that the local Convention and Visitors Bureau has a marketing manager in Germany. Moreover, the February 5, 2014 article on the website indicates the petitioner filmed promos for County in 2014, after the 2013 increase in German tourists. Second, while website cites an study for the results of promotions in eight markets, the material relates to an increase in tourism in general in these markets, not just German speaking countries. Moreover, the materials do not look specifically at in-language content program, the one in which the petitioner is involved. Third, , Account Director for Miles Marketing Destinations, the company that manages in-language content program, asserts that the petitioner has been working on the German language program since its inception and is her company's most valuable host. While this letter establishes that the petitioner is a valuable asset to his employer, an issue relevant to the criterion at 8 C.F.R. § 204.5(h)(3)(viii), it does not establish the petitioner's individual original contributions of major significance to the national economy. Accordingly, the petitioner has not established that it is the petitioner's original contribution to tourism promotion responsible for the increase rather than methodology and overall efforts promoting tourism in multiple markets.

The petitioner has not submitted evidence that satisfies this criterion's requirements.

> *Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

This criterion contains multiple evidentiary elements the petitioner must satisfy through the submission of evidence. The first is that the petitioner is an author of scholarly articles in his field. Scholarly articles generally report on original research or experimentation, involve scholarly investigations, contain substantial footnotes or bibliographies, and are peer reviewed. Additionally, while not required, scholarly articles are oftentimes intended for and written for learned persons in the field who possess a profound knowledge of the field. The second element is that the scholarly articles appear in one of the following: a professional publication, a major trade publication, or in a form of major media. The petitioner must submit evidence satisfying each of these elements to meet the plain language requirements of this criterion.

The director determined that the petitioner did not meet the requirements of this criterion, specifically focusing on the fact that the petitioner did not submit evidence that his general interest tourism articles were "scholarly articles" as required by the regulation. On appeal, the petitioner does not address this aspect of the director's decision, and does not discuss the scholarly nature of any of his authored material. Instead, he restates his opinion that the previously provided evidence was sufficient to meet this criterion's requirements.

As the appeal includes only a passing reference to this criterion without addressing the issue of whether the general interest articles are "scholarly," the petitioner has abandoned his claims under this criterion. *Desravines v. U.S. Atty. Gen.*, 343 F. App'x 433, 435 (11th Cir. 2009) (a passing reference in the arguments section of a brief without substantive arguments is insufficient to raise that ground on appeal). Regardless, the record supports the director's determination that the petitioner's general interest articles are not scholarly.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

The director determined the petitioner met the requirements of this criterion. The petitioner has submitted sufficient evidence, to include his work for as a voice-over actor, as well as his work as the starring lead in award winning international films, to establish that he meets this criterion.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

The director determined the petitioner met the requirements of this criterion. The petitioner has submitted sufficient evidence, to include letters and pay stubs demonstrating his remuneration is high in relation to others in the field, to establish that he meets this criterion.

D. Summary

For the reasons discussed above, we agree with the Director that the petitioner has not submitted the requisite initial evidence, in this case, evidence that satisfies three of the ten regulatory criteria.

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of his or her field of endeavor.

Had the petitioner submitted the requisite evidence under at least three evidentiary categories, in accordance with the *Kazarian* opinion, the next step would be a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor," and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(2) and (3); *see also Kazarian*, 596 F.3d at 1119-20. As the petitioner has not done so, the proper conclusion is that the petitioner has failed to satisfy the antecedent regulatory requirement of presenting evidence that satisfied the initial evidence requirements set forth at 8 C.F.R § 204.5(h)(3) and (4). *Kazarian*, 596 F.3d at 1122. Nevertheless, although we need not provide the type of final

merits determination referenced in *Kazarian*, a review of the evidence in the aggregate supports a finding that the petitioner has not demonstrated the level of expertise required for the classification sought.[4]

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.

[4] We maintain *de novo* review of all questions of fact and law. *See Soltane v. United States Dep't of Justice*, 381 F.3d 143, 145 (3d Cir. 2004). In any future proceeding, we maintain the jurisdiction to conduct a final merits determination as the office that made the last decision in this matter. 8 C.F.R. § 103.5(a)(1)(ii); *see also* INA §§ 103(a)(1), 204(b); DHS Delegation Number 0150.1 (effective March 1, 2003); 8 C.F.R. § 2.1 (2003); 8 C.F.R. § 103.1(f)(3)(iii) (2003); *Matter of Aurelio*, 19 I&N Dec. 458, 460 (BIA 1987) (holding that legacy INS, now USCIS, is the sole authority with the jurisdiction to decide visa petitions).