

JUN 30 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ADRIANA FIERRO MARIN, AKA Adriana Fienno Marin and JOSE MARIN- MEDINA,</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>LORETTA E. LYNCH, Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 13-72781

Agency Nos. A098-410-333
 A098-410-334

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted June 22, 2015**

Before: HAWKINS, GRABER, and W. FLETCHER, Circuit Judges.

Adriana Fierro Marin and Jose Marin-Medina, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals’ order dismissing their appeal from an immigration judge’s decision denying their request for a

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

continuance and entering an order of removal. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion for a continuance. *Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246 (9th Cir. 2008) (per curiam). We grant the petition for review and remand.

The BIA dismissed petitioners' appeal of the denial of a continuance on the sole ground that petitioners were not prima facie eligible for adjustment of status because no visa was "immediately available." To the contrary, petitioners were "not required to show prima facie eligibility for adjustment of status to demonstrate 'good cause' for a continuance." *Ahmed v. Holder*, 569 F.3d 1009, 1015 (9th Cir. 2009). Given the BIA's sole reliance on this ground for affirming the denial of the continuance, we remand to allow the agency to consider the factors outlined in our case law and its prior decisions relating to continuance motions. *See id.* at 1012-15; *see also Matter of Rajah*, 25 I. & N. Dec. 127, 135-36 (BIA 2009).

PETITION FOR REVIEW GRANTED; REMANDED.