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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GLORIA MARIA MONTOYA DE
SOTO,

Petitioner,

v.

JEFFERSON B. SESSIONS III, Attorney
General,

Respondent.

No. 13-70564

Agency No. A089-532-081

MEMORANDUM*

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

Submitted March 8, 2017**

Before: LEAVY, W. FLETCHER, and OWENS, Circuit Judges.

Gloria Maria Montoya de Soto, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing her appeal from an immigration judge's decision denying adjustment of status. We have

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

jurisdiction under 8 U.S.C. § 1252. We review de novo questions of law. *Garfias-Rodriguez v. Holder*, 702 F.3d 504, 512 n.6 (9th Cir. 2012) (en banc). We grant the petition for review and remand.

At the time the BIA determined that *Matter of Briones*, 24 I. & N. Dec. 355 (BIA 2007), applied retroactively to render Montoya de Soto ineligible to adjust status, the BIA did not have the benefit of this court's decision in *Acosta-Olivarria v. Lynch*, 799 F.3d 1271, 1274-77 (9th Cir. 2015). Like the petitioner in *Acosta-Olivarria*, Montoya de Soto applied for adjustment of status during the 21-month window between *Acosta v. Gonzales*, 439 F.3d 550 (9th Cir. 2006) (permitting adjustment of status for an alien inadmissible under 8 U.S.C.

§ 1182(a)(9)(C)(i)(I)), and *Briones*, when it was reasonable for Montoya de Soto to rely on our decision in *Acosta*. See *Acosta-Olivarria*, 799 F.3d at 1274-77. As there is no significant factual basis to distinguish Montoya de Soto's situation from the one presented in *Acosta-Olivarria*, we remand to the agency to reconsider her contention in light of *Acosta-Olivarria*.

In light of this disposition, we do not reach Montoya de Soto's remaining contentions.

PETITION FOR REVIEW GRANTED; REMANDED.