In the Supreme Court of the State of Alaska

James L. Galaktianoff,	)	
	)	Supreme Court No. **S-17392**
Petitioner,	)	
v.	)	**Order**
	)	Petition for Hearing
State of Alaska,	)	
	)	
Respondent.	)	Date of Order: **5/15/19**
	)	

Court of Appeals No. **A-12242**
Trial Court Case No. **1CR-12-00236CR**

Before: Bolger, Chief Justice, Winfree, Stowers, Maassen, and Carney, Justices.

James Galaktianoff petitions for hearing from a court of appeals' memorandum opinion affirming his conviction for sexual abuse of a minor. He argues that the court of appeals overlooked a question he raised in his appellate briefing: whether the minor waived her privilege in her counseling records when she signed a release in order to provide the records to the superior court under seal. In response, the State argues that this issue is subsumed in the court's conclusion that Galaktianoff did not make the foundational showing necessary to require *in camera* review of the records.

The failure to address a briefed issue is not one of the listed grounds for granting a petition for *hearing* under Appellate Rule 304. But an appellate court may grant a petition for *rehearing* under Appellate Rule 506(3) if it has "overlooked or misconceived a material question in the case." So it appears that Galaktianoff should have addressed his arguments to the court of appeals in a petition for rehearing.

Under AS 22.05.015(a), we may transfer a case to the court of appeals if the case is within the jurisdiction of that court. We therefore **TRANSFER** this petition to the court of appeals for consideration as a petition for rehearing.

Entered by direction of the court.

Clerk of the Appellate Courts

Meredith Montgomery

cc: Supreme Court Justices
Court of Appeals Judges
Judge D. George
Judge Pate
Trial Court Appeals Clerk

Distribution:

Daniel S Bair
Law Office of Dan Bair (OPA contract)
1564 Summit View Street
Anchorage AK 99504

Timothy W Terrell
Office of Criminal Appeals
1031 W. 4th Ave, Suite 200
Anchorage AK 99501