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NAME, CHANGE OF — COURT PROCEEDINGS — WHERE CERTIFICATE OF TITLE, MOTOR VEHICLE, ISSUED IN ONE NAME, NO AUTHORITY TO ISSUE NEW CERTIFICATE IN NEW NAME FOR SAME VEHICLE.

SYLLABUS:

Where a person has a proper certificate of title covering his motor vehicle and thereafter causes his name to be changed by court proceedings, there is no authority to issue him a new certificate of title in his new name, for the same vehicle.

Columbus, Ohio, February 24, 1942.

Hon. Ralph J. Bartlett, Prosecuting Attorney,
Columbus, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion as follows:

“Where a man has a proper certificate of title on his automobile and thereafter causes his name to be changed by a

proper proceeding in the Probate Court, can he by an application on his certificate of title, obtain a new certificate in his new name?"

The authority of the clerk of courts in the issuance of certificates of title for motor vehicles is found in Sections 6290-5 and 6290-10, General Code. The latter section provides:

"In the event of the transfer of ownership of a motor vehicle by operation of law as upon inheritance devise or bequest, order in bankruptcy, insolvency, replevin or execution sale, or whenever the engine of a motor vehicle is replaced by another engine, or whenever a motor vehicle is sold to satisfy storage or repair charges, or repossession is had upon default in performance of the terms of a chattel mortgage, trust receipt, conditional sales contract or other like agreement, the clerk of courts of the county in which the last certificate of title to said motor vehicle was issued, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the said clerk of courts of ownership and right of possession to such motor vehicle, and upon payment of the fee prescribed in this chapter, and presentation of an application for certificate of title, may issue to the applicant a certificate of title thereto."

It is at once apparent that the foregoing section has no application to the instant situation. The change of name does not constitute a transfer of ownership by operation of law, as set forth in Section 6290-10, General Code.

Section 6290-5, General Code, in providing for the issuance of certificates of title in situations not covered by Section 6290-10, General Code, contains the following requirement:

" * * * if a certificate of title has previously been issued for such motor vehicle in this state, (the application) shall be accompanied by said certificate of title duly assigned, unless otherwise provided for in this chapter."

It will be noted that this section also contemplates that there must be a transfer of ownership before a new certificate of title may be issued. This is evident since such section provides that if a certificate of title has been issued previously in this state for such motor vehicle the application for a new certificate of title must be accompanied by the old certificate duly assigned. The form of this assignment is prescribed by Section

6290-13, General Code, which assignment definitely contemplates a transfer of ownership.

Inasmuch as there has been no transfer of ownership in the factual situation presented, it is apparent that neither Section 6290-5, General Code, nor Section 6290-10, General Code, furnishes authority for the issuance of a new certificate of title.

Supporting this conclusion is Opinion No. 3242 of the Opinions of the Attorney General for the year 1931, Vol. II, page 692, wherein the syllabus reads:

“Where a corporation changes its name by amendment of its articles of incorporation, there is no authority to require the purchase of new license plates for motor vehicles theretofore owned by the corporation and registered under its original name.”

The then Attorney General said at pages 692 and 693:

“Examination of the motor vehicle license law discloses that it is the purpose of the law that all motor vehicles shall be registered in the name of the owner. Provision is made by Section 6294-1, of the Code for the procedure to be followed in the event of the transfer of ownership of a motor vehicle, but manifestly this section of law has no application where the ownership is not transferred. There is no provision of the law requiring any action on the part of the owner in the event of a change of name. Such a contingency might arise either with respect to a corporation or an individual, but the law has made no provision with respect thereto.”

The reasoning and conclusion of the above opinion are applicable to the instant question, inasmuch as the answer to each question depends on whether there has been a transfer of ownership. Consequently, since there has been no transfer of ownership there is no authority vested in the clerk of courts to issue a certificate of title in the situation presented.

In view of the foregoing, I am of the opinion that where a person has a proper certificate of title covering his motor vehicle and thereafter causes his name to be changed by court proceedings, there is no authority to issue him a new certificate of title in his new name for the same vehicle.

Respectfully,

THOMAS J. HERBERT
Attorney General.