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TITLE TO A MOTOR VEHICLE SHOULD BE SURRENDERED TO THE CLERK OF COURT ONLY AFTER THE VEHICLE HAS BEEN DISMANTLED, DESTROYED, OR CHANGED IN SUCH MANNER THAT IT HAS LOST ITS CHARACTER—WHERE A MOTOR VEHICLE HAS BEEN ASSIGNED TO A SALVAGE DEALER, SUCH DEALER IS REQUIRED TO OBTAIN A CERTIFICATE OF TITLE IN HIS OWN NAME— §§4505.11, 4505.03 R.C.

SYLLABUS:

1. Under Section 4505.11, Revised Code, a certificate of title should be surrendered to the clerk of courts and cancelled by said clerk only after the motor vehicle for which the certificate was issued has been dismantled, destroyed, or changed in such manner that it has lost its character as a motor vehicle or changed in such manner that its not the motor vehicle described in the certificate of title.

2. Where a certificate of title to a motor vehicle has been assigned by the owner to a salvage dealer, such dealer is required by Section 4505.03, Revised Code, to obtain a certificate of title to the motor vehicle in his own name; and there is no authority by which the dealer may surrender the assigned title to the clerk of courts.

Columbus, Ohio, January 19, 1962

Hon. Grant Keys, Director
Department of Highway Safety
240 Parsons Avenue, Columbus 5, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Your formal opinion concerning the matter outlined below is respectfully requested.

“The present procedure followed by the certificate of title section of the Bureau of Motor Vehicles is that if a certificate of title has been cancelled or surrendered to a court for cancellation and a salvage dealer has an opportunity to repair and sell the car, he is advised to apply to the court for a certificate of title.

“The question is—can the owner of a motor vehicle, as mentioned on a certificate of title, legally surrender his original certificate of title to the Clerk of Court to be cancelled under Section 4505.11 of

the Revised Code before he has dismantled the motor vehicle as mentioned in the certificate of title?

"In the event your answer to the above question is 'no', then can a salvage dealer legally surrender an assigned certificate of title to the Clerk of Court and be cancelled under Section 4505.11 of the Revised Code before he has dismantled the motor vehicle or must the salvage dealer, upon purchasing a motor vehicle, make application and obtain a certificate of title in his name as provided in Section 4505.03 of the Revised Code and hold the original certificate of title in his name until such time he has dismantled the motor vehicle?

"If the answer to the above is 'yes', then how can the owner, as mentioned on the certificate of title, or the salvage dealer obtain title to legally dispose of a motor vehicle that was never dismantled since the original certificate of title was cancelled under Section 4505.11 of the Revised Code?

"Has the registrar of motor vehicles, in such instances, authority to authorize the Clerk of Court to return the original certificate of title to the owner or salvage dealer in order that they may provide the purchaser with an assigned certificate of title as provided for in Section 4505.03 of the Revised Code?

"Due to the volume of such requests received in the Bureau of Motor Vehicles, we herewith request your opinion to ascertain if our procedure is correct."

Section 4505.11, Revised Code, provides:

"Each owner of a motor vehicle and each person mentioned as owner in the last certificate of title, *when such motor vehicle is dismantled, destroyed, or changed in such manner that it loses its character as a motor vehicle, or changed in such manner that it is not the motor vehicle described in the certificate of title;* shall surrender his certificate of title to the clerk of the court of common pleas who issued it, and thereupon said clerk shall, with the consent of any holders of any liens noted thereon, enter a cancellation upon his records and shall notify the registrar of motor vehicles of such cancellation.

"Upon the cancellation of a certificate of title in the manner prescribed by this section, the clerk and the registrar may cancel and destroy all certificates and all memorandum certificates in that chain of title." (Emphasis added)

The above quoted section of the Revised Code indicates that the owner of a motor vehicle must surrender the certificate of title after the vehicle is dismantled, destroyed or changed in such manner that it loses its character as a motor vehicle; and that the clerk shall then, with consent of lienholders, cancel the certificate.

I am unable to find any provision of law whereby the certificate of title of a motor vehicle which has not lost its identity as such may be surrendered and cancelled, and therefore answer your first question in the negative.

As to your second question, Section 4505.03, Revised Code, provides:

“No person, except as provided in Section 4505.05 of the Revised Code, shall sell or otherwise dispose of a motor vehicle without delivering to the purchaser or transferee thereof a certificate of title with such assignment thereon as is necessary to show title in the purchaser; *nor shall any person purchase or otherwise acquire a motor vehicle without obtaining a certificate of title for it in his name in accordance with sections 4505.01 to 4505.19, inclusive, of the Revised Code.*” (Emphasis added)

This section makes it clear that, upon purchase of the motor vehicle, the salvage dealer must get an assignment of the certificate of title to the motor vehicle, and must then obtain a certificate of title to the motor vehicle in his own name; and there is no authority for the surrendering of the assignment of the certificate of title.

In conclusion, it is my opinion and you are advised:

1. Under Section 4505.11, Revised Code, a certificate of title should be surrendered to the clerk of courts and cancelled by said clerk only after the motor vehicle for which the certificate was issued has been dismantled, destroyed, or changed in such manner that it has lost its character as a motor vehicle or changed in such manner that it is not the motor vehicle described in the certificate of title.

2. Where a certificate of title to a motor vehicle has been assigned by the owner to a salvage dealer, such dealer is required by Section 4505.03, Revised Code, to obtain a certificate of title to the motor vehicle in his own name; and there is no authority by which the dealer may surrender the assigned title to the clerk of courts.

Respectfully,

MARK McELROY

Attorney General