



**IN THE HIGH COURT OF KENYA AT KISII**

**CRIMINAL APPEAL NO.391 OF 2002**

**(From original convictions and sentences of the SRM's Court at Oyugis in criminal case No.573 of 2002.)**

**GORDON OTIENO ..... APPELLANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

**JUDGMENT:**

The stolen plough was found in possession of the appellant who totally failed to give an account of how he got into possession of it and accordingly he was properly convicted, and the appeal is thus unmeritorious and the same is dismissed. But the plough was recovered. No loss was suffered by the complainant. The appellant is only a youth. He is also a first offender. The sentence of 8 years imprisonment is extremely harsh and totally out of proportion with the disclosed circumstances of the case. So I reduce the sentence to the period, which has been suffered up to today, and the appellant shall be set at liberty forthwith unless otherwise he is held on a lawful warrant.

**Dated and delivered on the 16th of May, 2003.**

**I.C.C. WAMBILYANGAH  
JUDGE**