



**REPUBLIC OF KENYA**

**IN THE COURT OF APPEAL OF KENYA**

**AT NAKURU**

**Criminal Appeal 16 of 1994**

**1. SIMON ODERA GIBISWA**

**2. DAVID WAIZAMA KITUTO.....APPELLANTS**

**AND**

**REPUBLIC.....RESPONDENT**

**(Appeal from an order of the High Court of Kenya at Eldoret (Mr. Justice Aganyanya) dated 30<sup>th</sup> September, 1992,**

**IN**

**H.C.CR.A. NOS. 192 & 194 OF 1992)**

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**JUDGMENT OF THE COURT**

There is an error of principal in sentencing in this case.

We allow the appeal and reduce the prison sentence to the period already served today and order the appellants to be released forthwith after each receiving a total of two strokes of the cane.

Reasons of our judgment to be given later.

Dated and delivered at Nakuru this 22<sup>nd</sup> day of February, 1994.

J.M. GACHUHI

.....

JUDGE OF APPEAL

A.M. COCKAR

.....

JUDGE OF APPEAL

P.K. TUNOI

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original.

**DEPUTY REGISTRAR**



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