

lay elicited an oral confession from her.³ She was thereupon placed under arrest at approximately 4:25 A.M. on Sunday, July 3, 1960. After an additional hour of questioning, the police returned appellant to the scene of the killing where, with her help, they found the weapon used, a knife. Thereupon, she was returned to homicide headquarters, where the questioning continued until about 8:00 A.M. when she signed a full confession, claiming self defense. She was not brought before the committing magistrate until the following day, Monday, July 4, at 9:00 A.M.⁴ Since the time elapsed from arrest until the written confession was obtained and the police procedures used during that interval in this case were substantially the same as in *Naples* and *Williams*, in view of appellant's timely objection the ruling on the admissibility of the confession here must be the same.⁵

The Government attempts to distinguish this case from *Naples* and *Williams*, arguing that there the delay was daytime delay whereas here the delay until the confession was signed occurred between 4:30 and 8:00 o'clock in the morning, the suggestion being that a magistrate was not as available during that time. The record is barren of any evidence indicating that the police made any effort to determine availability of a magistrate. And on argument the Government admitted that not only a magistrate, but

³ Appellant states that the admission of this threshold confession also violates Rule 5(a), but the point is not seriously urged, probably in view of our opinions in *Naples*, supra; *Williams*, supra; *Lockley v. United States*, 106 U.S.App.D.C. 163, 270 F.2d 915; *Heideman v. United States*, 104 U.S.App.D.C. 128, 259 F.2d 943; *Metoyer v. United States*, 102 U.S.App.D.C. 62, 250 F.2d 30.

⁴ In view of *United States v. Mitchell*, 322 U.S. 65, the appellant makes no point of the delay subsequent to signing the confession.

⁵ See Note 2. Compare *Metoyer v. United States*, supra.