

BASTIAN, *Circuit Judge*, dissenting: My examination of the record indicates that the confession was freely and voluntarily given, and in no sense was it obtained in violation of the Mallory rule.

The police questioned appellant on several occasions prior to his arrest. Having additional information, they arrested him in the 2700 block of Wade Road, S. E., on January 17, 1961, at 6:45 P.M. He was taken to the Fourteenth Precinct, located at 42nd and Benning Road, S. E., arriving there at 7:20 P.M. and then being taken to an upstairs room at the precinct. Appellant was not questioned on his way to the precinct, nor did he volunteer any statement. Detective Shirley testified that at about 7:30 P.M., after appellant had been advised of his rights and that anything he stated might be used against him, Coleman gave a statement claiming an alibi. He was then left alone until 8:45 P.M., when the officers familiar with the case, who had been called from downtown to the precinct, arrived to interrogate him. Thus confronted, appellant admitted his guilt within five minutes. Surely his oral admissions, at least, may be received. *Metoyer v. United States*, 102 U.S.App.D.C. 62, 250 F.2d 30 (1957); and see *Mitchell v. United States*, 322 U.S. 65 (1944). Thereupon, the officers undertook to reduce those threshold admissions to writing, a process involving a reasonable time, before booking the appellant. He was given a preliminary hearing at 10:00 A.M. the next day. No confession or statement made by appellant after the confession was offered in evidence.¹

During the interim between the giving of the alibi at 7:30 P.M. and the interrogation of appellant at 8:45 P.M.,

¹ "A confession made during a period of necessary delay in arraignment is not inadmissible because that period was followed by a period of unnecessary delay." See *Lockley v. United States*, 106 U.S.App.D.C. 163, at 166, 270 F.2d 915, at 918 (1959).