

to imprisonment for a term of from two to six years to run concurrently with a four-to-twelve-year sentence imposed in an unrelated case in June, 1961, which he was serving when he was tried in the present case.

Muschette appeals, urging that his confession, without which he says he could not have been convicted, was extracted from him by physical abuse during a period of unnecessary delay in presenting him to a committing magistrate following his unlawful arrest without a warrant.

Evidence for the prosecution showed that during the night of April 6-7, 1961, police were attracted to a clothing store by the ringing of its burglar alarm. The store had been entered from an adjoining vacant building through a hole dug in the masonry wall, and a small safe had been carried from the first floor to a landing halfway up stairs leading to the second floor. The burglars set off the alarm as they ascended the stairs, so they abandoned the safe on the landing and fled the scene.

The officers found near the hole a sledge hammer, a watch, a crowbar and an army duffel bag containing a hacksaw and another crowbar. Imprinted on the duffel bag were a name and army serial number: "Jeffrey H. Matthews 13491323." It was revealed during a hearing out of the presence of the jury that Jeffrey H. Matthews, having been located and interviewed by the police, acknowledged ownership of the bag and stated he had last seen it about two weeks before when he was living with Robert A. Muschette at 403 M Street, N. E.

At about 2:00 p.m. April 7, police officers went to that address with the obvious purpose of asking Muschette about the duffel bag Matthews had said he had left there. They interviewed him in his upstairs room, to which he invited them to get away from the noise of a party going on in the lower part of the house. The officers observed in plain view a pair of trousers on which brick and mortar