the gun to Meredia's neck, pulled the trigger, and found that the chamber was empty. Thompson in frustration pistol-whipped Meredia and hit him in the head with the cash tray from the register. Thompson next fired two shots that missed the other clerk, Mansoor Rahim, who was in the rear of the store. Thompson and Butler fled and drove away with Thompson behind the wheel. Rahim ran from the store into the parking lot and was shot and killed by Butler. Butler and Thompson were prosecuted and convicted in March 1998. Butler was sentenced to life imprisonment, and Thompson was sentenced to death.

Texas is the only state that authorizes the execution of an individual who "solicits, encourages, directs, aids or attempts to aid" the "triggerman" in a homicide. Five individuals had been executed under the Texas "law of parties" in the past. At the punishment stage, prosecutors alleged that Thompson had been involved in at least eight other robberies that resulted in fatalities, two of which took place in the twenty-four hours before the robbery–murder of the convenience store clerks.

The Texas Board of Pardons and Paroles voted 5-2 to recommend to Governor Rick Perry that he commute Thompson's sentence. Perry, in fact, had only recently commuted the death sentence of Kenneth Foster, who had been sentenced to death under the "law of parties." Governor Perry rejected the board's recommendation, and announced that "after reviewing all of the facts in the case of Robert Lee Thompson, who had a murderous history and participated in the killing of Mansoor Bhai Rahim Mohammed, I have decided to uphold the jury's capital murder conviction and capital punishment for this heinous crime." Thompson was executed almost immediately following Governor Perry's decision. Just before his execution, Thompson claimed to have converted to Islam and sought forgiveness from the victims' families and from Allah.

The prevailing law under the Eighth Amendment on the constitutionality of executing individuals who do not actually kill is not entirely clear. In *Enmund v. Florida*, the U.S. Supreme Court held that it was unconstitutional to execute the driver of a getaway car who lacked a criminal intent and who did not participate in a robbery and murder (458 U.S. 782 [1982]). On the other hand, in *Tison v. Arizona*, the Court noted that "substantial participation in a violent felony under circumstances likely to result in the loss of innocent life may justify the death penalty even absent an intent to kill" (481 U.S. 137 [1987]).