[J-72-2022 and J-73-2022] [MO: Donohue, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

	:	No. 91 MAP 2022
IN RE: NOMINATION PAPER OF CAROLINE AVERY FOR REPRESENTATIVE IN CONGRESS FROM THE 1ST CONGRESSIONAL DISTRICT	:	Appeal from the Order of the Commonwealth at No. 392 MD 2022, dated August 23, 2022
OBJECTION OF: DAVID R. BREIDINGER, ELLEN COX, AND DIANE DOWLER	:	SUBMITTED: September 15, 2022
APPEAL OF: CAROLINE AVERY		
IN RE: NOMINATION PAPER OF BRITTANY KOSIN FOR REPRESENTATIVE IN THE GENERAL ASSEMBLY FROM THE 178TH LEGISLATIVE DISTRICT	:	No. 92 MAP 2022
	:	Appeal from the Order of the Commonwealth Court at No. 393 MD 2022 dated August 23, 2022.
OBJECTION OF: MARY RODERICK, JOHN COPPENS, AND ANDREW GANNON	:	SUBMITTED: September 16, 2022
APPEAL OF: BRITTANY KOSIN	:	

CONCURRING OPINION

DECIDED: September 22, 2022
JUSTICE WECHT **OPINION FILED: January 19, 2023**

I join the Majority Opinion. I agree with the Majority's assessment of this Court's decision in *In re Cohen for Office of Philadelphia City Council-at-Large*.[1] Specifically, the narrowest rationale shared by a majority of this Court in *Cohen* would countenance no extension of *Packrall v. Quail*[2] beyond its facts, which involved the voluntary withdrawal of a primary election nomination petition pursuant to Section 914 of the Election Code.[3]

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1 225 A.3d 1083 (Pa. 2020).

2 192 A.2d 704 (Pa. 1963).

3 25 P.S. § 2874.

But for the reasons discussed in my dissenting opinion in *Cohen*,[4] I continue to believe that *Packrall* departed from the text of the Election Code's "sore loser" provision.[5] The so-called "*Packrall* exception" is merely a judicial refusal to apply plain statutory language, in service of an ostensibly equitable goal or preferred outcome.

The governing statute is clear. No nomination papers "shall be permitted to be filed" if "the candidate named therein has filed a nomination petition for any public office for the ensuing primary."[6] No exceptions appear in the statutory language. It is not this Court's place to invent *ad hoc* carve-outs from the legislature's unambiguous commands.[7] This was true when *Packrall* was decided.[8] It is true now.

I recognize that a majority of this Court in *Cohen* opted to follow a narrower path, packing *Packrall* into a little box with its specific factual predicates. Today's case shows once again that this is not the most proper analytical approach. Further review of this issue has only reinforced the view that I expressed in *Cohen*: "*Packrall* was wrongly decided, and it should be overruled."[9]

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4 *Cohen*, 225 A.3d at 1092-96 (Wecht, J., dissenting).

5 *See* Section 976(e) of the Election Code, 25 P.S. § 2936(e); Maj. Op. at 2 n.2.

6 25 P.S. § 2936(e).

7 *See Sivick v. State Ethics Comm'n*, 238 A.3d 1250, 1264 (Pa. 2020) ("It is axiomatic that we may not add statutory language where we find the extant language somehow lacking.").

8 Although *Packrall* predates the adoption of the Statutory Construction Act of 1972, 1 Pa.C.S. §§ 1501-1991, within which our modern articulations of this principle are generally grounded, the maxim that courts must faithfully apply the language of statutes without judicial addition or subtraction is one that has existed since time immemorial. *See, e.g.*, *Sch. Dist. of Borough of Olyphant v. Am. Sur. Co. of New York*, 184 A. 758 (Pa. 1936) ("It is not for us, by interpretation, to add to the statute a requirement which the Legislature did not see fit to include.").

9 *Cohen*, 225 A.3d at 1093 (Wecht, J., dissenting).