

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D30575  
C/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - February 23, 2011

MARK C. DILLON, J.P.  
DANIEL D. ANGIOLILLO  
RUTH C. BALKIN  
SHERI S. ROMAN, JJ.

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2009-07250

DECISION & ORDER

In the Matter of City Council of City of Mount  
Vernon, petitioner-respondent, v Ravi Batra, etc.,  
appellant; John M. Flannery, nonparty-respondent.

(Index No. 22593/07)

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The Law Firm of Ravi Batra, P.C., New York, N.Y. (Ravi Batra, appellant pro se,  
Todd B. Sherman, and Yun Jin Lee of counsel), for appellant.

Hina Sherwani, Mount Vernon, N.Y., for petitioner-respondent.

Wilson Elser Moskowitz Edelman & Dicker LLP, New York, N.Y. (Patrick J.  
Lawless, Thomas Leghorn, and Richard E. Lerner of counsel), for nonparty-  
respondent.

In a proceeding pursuant to CPLR article 78, inter alia, to nullify and vacate the  
appointment of Ravi Batra as counsel to the Office of the Mayor of the City of Mount Vernon, Ravi  
Batra appeals from so much of an order and judgment (one paper) of the Supreme Court,  
Westchester County (Bellantoni, J.), entered May 27, 2009, as, upon granting that branch of his  
motion which was to dismiss the proceeding, determined that his appointment was lawfully terminated  
on January 2, 2008, and denied that branch of his motion which was for an award of an attorney's  
fee and costs, and for the imposition of sanctions pursuant to 22 NYCRR 130-1.1.

ORDERED that the order and judgment is affirmed insofar as appealed from, with one  
bill of costs.

March 29, 2011

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MATTER OF CITY COUNCIL OF CITY OF MOUNT VERNON v BATRA

Contrary to the appellant's contention, the Supreme Court properly considered the issue of whether his appointment pursuant to Section 66 of the Mount Vernon City Charter was lawfully terminated. Moreover, there is no merit to the appellant's contention that his appointment pursuant to that section was irrevocable and not at the pleasure of the mayor. Where, as here, the power of appointment is conferred in general terms and without restriction, the right to remove the appointee is within the discretion or at the pleasure of the appointing power (*see People ex rel. Fonda v Morton*, 148 NY 156, 160; *Matter of Waters v City of Glen Cove*, 181 AD2d 783; *Matter of Prospect v Cohalan*, 112 AD2d 1018, 1021; *Mack v Mayor, Aldermen & Commonalty of City of N.Y.*, 37 Misc 371, 374, *affd* 82 App Div 637, *affd* 176 NY 573). Accordingly, the Supreme Court correctly determined that the appellant's appointment pursuant to Section 66 of the Mount Vernon City Charter was lawfully terminated, and that any obligation to respond to and/or comply with the subpoenas he issued pursuant to his appointment terminated with the termination of his appointment.

Finally, the Supreme Court providently exercised its discretion in denying that branch of the appellant's motion which was for an award of an attorney's fee and costs, and for the imposition of sanctions pursuant to 22 NYCRR 130-1.1.

DILLON, J.P., ANGIOLILLO, BALKIN and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan  
Clerk of the Court