

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

---

No. 11-3312

---

Michael Keith Daugherty,

Appellant,

v.

The Heights; Cassie Dauer; Mary Siler;  
Teresa Proebsting,

Appellees.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

Appeal from the United States  
District Court for the  
Eastern District of Missouri.

[UNPUBLISHED]

---

Submitted: March 4, 2012  
Filed: May 11, 2012

---

Before WOLLMAN, MELLOY, and SMITH, Circuit Judges.

---

PER CURIAM.

Michael Daugherty appeals the district court's<sup>1</sup> adverse grant of summary judgment in his action against The Heights and several of its employees. Daugherty claimed that he was denied access to a public accommodation, namely, The Heights's swimming pool, because of his race in violation of Title II of the Civil Rights Act of 1964, 42 U.S.C. § 2000a. Upon careful de novo review, see Cross v. Prairie Meadows Racetrack & Casino, Inc., 615 F.3d 977, 980-81 (8th Cir. 2010), we conclude that

---

<sup>1</sup>The Honorable Rodney W. Sippel, United States District Judge for the Eastern District of Missouri.

summary judgment was properly granted, see id. at 981 (to survive summary judgment, plaintiff must substantiate allegations with enough probative evidence to support finding in her favor); Bloom v. Metro Heart Grp. of St. Louis, Inc., 440 F.3d 1025, 1028 (8th Cir. 2006) (speculation and conjecture are insufficient to defeat summary judgment). We also reject as meritless Daugherty's contention that the district court relied on fabricated evidence.

Accordingly, we affirm the judgment of the district court. See 8th Cir. R. 47B.

---