

respondents' parental rights.

¶ 3 Respondents filed timely notices of appeal, asserting (1) the trial court's findings of unfitness were against the manifest weight of the evidence and (2) the court's best interest findings were against the manifest weight of the evidence. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 A. Circumstances Preceding the State's Motion To Find Respondents Unfit and To Terminate Respondents' Parental Rights

¶ 6 On December 20, 2011, the State filed a petition for adjudication of neglect, asserting respondents neglected their minor children by (1) subjecting them to an injurious environment, in that respondents provided inadequate supervision (705 ILCS 405/2-3(1)(b) (West 2010)) and (2) respondent father abandoning the minor children (705 ILCS 405/2-3(1)(a) (West 2010)). Specifically, the shelter care report alleged Washington left the minor children at home unsupervised in the care of Ja. S. and that investigators discovered the home in such a dirty and cluttered condition that they were concerned about the health and safety of the children. Throughout the case, Thomas was incarcerated in the Illinois Department of Corrections. The fathers of Ja. S., An. W., and Ar. W. were also named in the petition but are not parties on appeal. Following a December 21, 2011, shelter care hearing, the trial court placed temporary custody of the minors with the Department of Children and Family Services (DCFS). In February 2012, the minors were adjudicated as neglected. Following a March 2012 dispositional hearing, the trial court (1) made the minors wards of the court, and (2) granted custody and guardianship of the minors to DCFS.

¶ 7 B. Fitness Hearing

¶ 8 On December 8, 2012, the State filed a motion seeking a finding of unfitness and the termination of respondents' parental rights. The motion alleged (1) respondents failed to make reasonable efforts to correct the conditions that formed the basis for the minors' removal from the home (750 ILCS 50/1(D)(m) (West 2010)); (2) respondents failed to make reasonable progress toward the return home of the minors within the initial nine-month period following the adjudication of neglect (750 ILCS 50/1(D)(m)(ii) (West 2010)); (3) respondents failed to maintain a reasonable degree of interest, concern, or responsibility toward the minors (750 ILCS 50/1(D)(b) (West 2010)); and (4) Thomas was unfit because his present and repeated incarcerations prevented him from discharging his parental responsibilities toward Al. T. and Ea. T. (750 ILCS 50/1(D)(s) (West 2010)).

¶ 9 In March 2013, the trial court conducted a fitness hearing. Keona Johnson, a foster care worker for Youth and Family Solutions, testified she had been the assigned caseworker for respondents' case since March 2012. According to Johnson, Thomas initially failed to respond to a letter informing him that Johnson had been assigned as his caseworker, but Johnson later received both a phone call and letter from Thomas indicating he wanted to cooperate with services. Thomas then continued contacting Johnson, expressing his desire to establish a romantic relationship with her. Throughout the case, Thomas did not have any visitation with Al. T. or Ea. T. because DCFS determined it was inappropriate to take such young children for prison visits. Johnson's records indicated Thomas completed one parenting class while incarcerated. The trial court admitted evidence of Thomas's eight prior criminal convictions that resulted in incarcerations, including the case for which he was presently serving a seven-year sentence.

¶ 10 Johnson also testified about Washington's progress on the service plan. First, Johnson explained Washington's home failed to pass a safety check due to clutter creating hazardous conditions for the children. Although Johnson referred Washington to a service that would assist her in cleaning the home, Washington failed to cooperate with the service provider and, after six sessions, the homemaker service terminated Washington due to her lack of improvement and cooperation. Washington had also been terminated from multiple parenting education groups due to numerous absences.

¶ 11 Throughout the case, Washington received only supervised visits with her minor children due to continued safety concerns in the home and supervision issues. Specifically, Johnson explained a visit with the children required two agency supervisors because Washington was not engaging with the children, resulting in the children running off, fighting, and falling, all without Washington's knowledge. Eventually, due to Washington's difficulty in supervising all five children at once, Johnson arranged visitation so that Washington would visit with two or three children at a time. In June 2012, Washington missed both of her scheduled visits. In August 2012, she attended four of nine scheduled visits, and, in September 2012, she attended four of eight visits. According to Johnson, Washington blamed her missed visits on her inability to afford gas and vehicle repairs. To resolve this issue, Johnson offered Washington gas cards, but the missed visits continued because, as Johnson later discovered, Washington used the cards for personal errands. A psychological report recommended Washington engage in therapy, which she had not yet completed.

¶ 12 Eddie Washington, the father of Washington, testified he was familiar with the services Washington needed to complete in order to regain custody of her children. He

explained he helped fix Washington's car on multiple occasions when it broke down and would then drive Washington to classes, visits, and drug drops. Eddie stated he tried to provide transportation to Washington because she had no money for gas or vehicle repairs. On approximately five occasions, Eddie and his wife attended visits with Washington, and those visits, according to Eddie, went "very well." He also testified Washington was making efforts toward cleaning her house. Additionally, Washington's friend, Matthew Wright testified he provided transportation to Washington so she could attend visits, classes, and drug drops.

¶ 13 Washington denied having a cluttered home, explaining the caseworker likely saw the toys of five children scattered about or visited at a time when Washington had clothing spread over the room while doing laundry. With regard to her parenting classes, Washington explained she had scheduling conflicts that prevented her from attending the first parenting program to which the caseworker referred her. She then explained she enrolled herself in another parenting class but failed to complete it after missing the final class. According to Washington, Johnson eventually referred her to another parenting class, but Washington stopped attending after becoming ill. As of the hearing date, she was attending parenting classes through Catholic Charities. She explained she always found transportation to and attended all of her drug drops.

¶ 14 With respect to visitation, Washington testified, initially, visits were scheduled at the Rantoul library, which was within walking distance from her home. However, once visits switched to Champaign in July 2012, visits became more difficult due to her unreliable transportation. Washington described her visits as "going good," with the only real difficulty being controlling her three-year-old, who she said was exhibiting signs of autism and thus required additional supervision. She stated during the visits she kept a close eye on her three-

year-old and played with her children. She recalled most of her "missed" visits were actually cancelled by Johnson, but she agreed she missed some visits due to car trouble.

¶ 15 As part of her service plan, Washington obtained a substance abuse evaluation, which recommended no treatment. She had also been attending therapy at Crosspoint Human Services and Catholic Charities for several weeks. She testified she was not employed but was looking for work. Thomas did not testify.

¶ 16 Following the hearing, the trial court found Thomas to be unfit on all four counts alleged against him in the State's motion. As to the three counts against Washington, the court found Washington maintained a reasonable degree of interest, concern, or responsibility toward the minor children (count III) but found her unfit as to the remaining two counts.

¶ 17 C. Best Interest Hearing

¶ 18 In April 2013, the trial court held a best interest hearing in which the parties relied upon the best interest report, filed April 17, 2013. The report revealed the minor children had been split between two foster homes, with Ja. S. And An. W. remaining together and Ar. W., Ea. T., and Al. T. residing together. All five children demonstrated a strong bond with their foster parents, calling them "mommy" and "daddy," and expressed a desire to remain in their current placements. The children's schools and Head Start programs reported developmental, behavioral, and academic improvements that the teachers attributed to the involvement of the foster parents. Additionally, both foster families agreed to provide permanency for the minor children.

¶ 19 The best interest report indicated Washington last contacted the caseworker on April 2, 2013, approximately two weeks before the filing of the report. Prior to the hearing, Washington tested positive for cannabis on three occasions and failed to appear for two

additional drug drops. Though she was enrolled in individual counseling sessions, the report indicated her attendance was poor and inconsistent. The father remained incarcerated but continued to communicate with the caseworker through letters.

¶ 20 The report ultimately recommended that terminating respondents' parental rights would be in the best interests of the children. After reviewing the report, the trial court agreed and terminated respondents' parental rights.

¶ 21 Following the trial court's termination of respondents' parental rights, respondents filed timely notices of appeal. We have consolidated respondents' cases for review.

¶ 22 II. ANALYSIS

¶ 23 On appeal, respondents assert (1) the trial court's findings of unfitness were against the manifest weight of the evidence and (2) the court's best-interest findings were against the manifest weight of the evidence. We address respondents' arguments in turn.

¶ 24 A. Whether the Findings of Unfitness Were Against the
Manifest Weight of the Evidence

¶ 25 Respondents argue the trial court's findings of unfitness were against the manifest weight of the evidence and ask us to reverse the court's rulings. We disagree and decline to do so.

¶ 26 The State has the burden of proving parental unfitness by clear and convincing evidence. *In re Jordan V.*, 347 Ill. App. 3d 1057, 1067, 808 N.E.2d 596, 604 (2004). A reviewing court will not overturn the trial court's finding of unfitness unless it is against the manifest weight of the evidence. *Jordan V.*, 347 Ill. App. 3d at 1067, 808 N.E.2d at 604. The trial court's decision is given great deference due to "its superior opportunity to observe the

witnesses and evaluate their credibility." *Jordan V.*, 347 Ill. App. 3d at 1067, 808 N.E.2d at 604.

¶ 27

1. *Findings as to Thomas*

¶ 28

In his brief, Thomas challenges the trial court's finding of unfitness. Specifically, Thomas argues (1) "his failure to make progress was not attributable to him" because DCFS denied his request for visits with Al. T. and Ea. T.; (2) his attendance at a parenting class "clearly demonstrate[d] that he wished to parent his children"; (3) given his incarceration, "his efforts to maintain a degree of interest, concern[,] and responsibility as to the welfare of his children were clearly reasonable"; and (4) the evidence demonstrated Thomas was "capable of providing a stable, loving home life for his children" following his release from prison.

¶ 29

The State contends Thomas's appeal is moot because Thomas failed to specifically challenge the trial court's finding of unfitness with respect to the fourth count, which alleged Thomas was unfit because his present and repeated incarcerations prevented him from discharging his parental responsibilities toward Al. T. and Ea. T. (750 ILCS 50/1(D)(s) (West 2010)). The failure to challenge one of the grounds constituting a finding of unfitness renders an appeal moot as to that issue. *In re T.Y.*, 334 Ill. App. 3d 894, 905, 778 N.E.2d 1212, 1219-20 (2002). However, given that Thomas's brief contains a statement concerning Thomas's ability to provide a stable, loving home upon his release from prison, we do not find Thomas completely failed to challenge the fourth count. Therefore, the issue of Thomas's fitness is not moot.

¶ 30

Nonetheless, we conclude the trial court's finding of unfitness based on Thomas's repeated incarcerations impeding his ability to discharge his parental responsibilities was not against the manifest weight of the evidence. Mere incarceration is not enough for a finding of unfitness; the State must prove Thomas's repeated incarcerations prevented him from discharging

his parental responsibilities. 750 ILCS 50/1(D)(s) (West 2010). In determining whether a parent's repeated incarcerations prevented him from discharging his parental duties, reviewing courts look at the "overall impact" and related consequences of repeated incarcerations, such as the "diminished capacity to provide financial, physical, and emotional support for the child." *In re D.D.*, 196 Ill. 2d 405, 421, 752 N.E.2d 1112, 1121 (2001). During the fitness hearing, the State presented certified copies of Thomas's eight criminal convictions resulting in incarceration and presented evidence that Thomas had been incarcerated throughout the pendency of the case. Thomas's criminal history is representative of one who cannot provide stability for his children, nor could he discharge his parental responsibilities, such as supervising the children or providing the necessities of shelter, food, and safety. Therefore, we conclude the court's finding of unfitness as it relates to Thomas's repeated incarcerations impeding his ability to discharge his parental responsibilities was not against the manifest weight of the evidence and, thus, we need not review the other grounds upon which the court relied. See *In re J.J.*, 307 Ill. App. 3d 71, 76, 716 N.E.2d 846, 850 (1999) (“[A] finding of unfitness on any one ground obviates the need to review other statutory grounds.”).

¶ 31 *2. Findings as to Washington*

¶ 32 The trial court found Washington unfit for (1) failing to make reasonable efforts to correct the conditions which brought the minor children into custody (750 ILCS 50/1(D)(m)(I) (West 2010)) and (2) failing to make reasonable progress toward the return home of the minor children within the original nine-month period (750 ILCS 50/1 (D)(m)(ii) (West 2010)).

Whether a parent has made "reasonable efforts" to correct the conditions that brought the children into DCFS care "is a subjective standard, focusing on the amount of effort that is

reasonable for the particular parent whose rights are at stake." *In re J.A.*, 316 Ill. App. 3d 553, 565, 736 N.E.2d 678, 688 (2000). Conversely, "reasonable progress" toward the return home of the minor children is an objective standard which requires, at a minimum, the parent make "measurable steps toward the goal of reunification through compliance with court directives, service plans or both." *In re Gwynne P.*, 346 Ill. App. 3d 584, 594, 805 N.E.2d 329, 338 (2004), *aff'd*, 215 Ill. 2d 340, 830 N.E.2d 508 (2005).

¶ 33 In this case, Washington continuously failed to complete the service plan and comply with the court directive to cooperate with services. She routinely missed visitation with her children, including visits in June 2012 that, according to her own testimony, were within walking distance of her home. On those visits Washington attended, the caseworker found Washington continued to demonstrate a lack of supervision, which first resulted in needing two caseworkers at every visit to help supervise the five children and, later, needing to split the children up for visits on separate days in order to maintain control. Washington blamed her missed visits on her lack of reliable transportation; however, her father and her friend testified they provided transportation to her when needed. Moreover, Washington squandered the gas cards provided to her by the caseworker for purposes of attending visitation. Washington's excuses for her missed visits are inconsistent with the testimony of her own witnesses, therefore contradicting the evidence presented at trial. By missing both of her visits in June 2012 and half of her visits in August and September 2012, Washington failed to make "reasonable efforts" toward correcting the conditions which brought her children into custody and "reasonable progress" toward the reunification of her family.

¶ 34 At last count, Washington was enrolled in a fourth parenting program, having

¶ 37 The trial court must consider the following factors, in the context of the child's age and developmental needs, in determining whether to terminate parental rights:

"(a) the physical safety and welfare of the child, including food, shelter, health, and clothing; (b) the development of the child's identity; (c) the child's background and ties, including familial, cultural, and religious; (d) the child's sense of attachments ***; (e) the child's wishes and long-term goals; (f) the child's community ties, including church, school, and friends; (g) the child's need for permanence which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives; (h) the uniqueness of every family and child; (i) the risks attendant to entering and being in substitute care; and (j) the preferences of the persons available to care for the child." 705 ILCS 405/1-3(4.05) (West 2010).

¶ 38 The best interest stage is about the best interests of the child, not the parent. 705 ILCS 405/1-3(4.05) (West 2010). Once removed from Washington's home in December 2011, the minor children were separated between two homes where they (1) bonded with their foster parents, (2) improved both developmentally and academically, and (3) expressed a desire to remain with their foster parents. Additionally, the foster parents have indicated a willingness to provide permanency for the children. Thomas was in no position to provide permanency to Al. T. or Ea. T. in the near future due to his incarceration. Washington was also in no position to provide permanency for the children in the near future, as she failed to correct the conditions that

